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MACKENZIE VALLEY PIPELINE INQUIRY

IN THE MATTER OF APPLICATIONS BY EACH OF
(a) CANADIAN ARCTIC GAS PIPELINE LIMITED FOR A
RIGHT-OF-WAY THAT MIGHT BE GRANTED ACROSS
CROWN LANDS WITHIN THE YUKON TERRITORY AND
THE NORTHWEST TERRITORIES, and
(b) FOOTHILLS PIPE LINES LTD. FOR A RIGHT-OF-WAY
THAT MIGHT BE GRANTED ACROSS CROWN LANDS
WITHIN THE NORTHWEST TERRITORIES
FOR THE PURPOSE OF A PROPOSED MACKENZIE VALLEY PIPELINE

and

IN THE MATTER OF THE SOCIAL, ENVIRONMENTAL AND
ECONOMIC IMPACT REGIONALLY OF THE CONSTRUCTION,
OPERATION AND SUBSEQUENT ABANDONMENT OF THE ABOVE
PROPOSED PIPELINE

(Before the Honourable Mr. Justice Berger, Commissioner)

Yellowknife, N.W.T.

June 29, 1976.

PROCEEDINGS AT INQUIRY

Volume 154

CANADIAN ARCTIC
GAS STUDY LTD.

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1 APPEARANCES:

2 Mr. Ian G. Scott, Q.C.,
3 Mr. Stephen T. Goudge,
4 Mr. Alick Ryder and Mr. Ian Roland for Mackenzie Valley Pipeline
Inquiry;

5 Mr. Pierre Genest, Q.C.,
6 Mr. Jack Marshall,
7 Mr. Darryl Carter and Mr. J.T. Steeves for Canadian Arctic Gas Pipeline
Limited.

8 Mr. Reginald Gibbs, Q.C.,
9 Mr. Alan Hollingworth and Mr. John W. Lutes for Foothills Pipe Lines Ltd.;

10 Mr. Russell Anthony,
11 Prof. Alastair Lucas and Mr. Garth Evans for Canadian Arctic Resources
Committee;

12 Mr. Glen W. Bell and
13 Mr. Gerry Sutton for Northwest Territories
Indian Brotherhood, and
14 Metis Association of the
Northwest Territories;

15 Mr. John Bayly and
16 Miss Leslie Lane for Inuit Tapirisat of Canada,
17 and The Committee for
Original Peoples Entitle-
ment;

18 Mr. Ron Veale and
19 Mr. Allen Lueck for The Council for the Yukon
Indians;

20 Mr. Carson Templeton for Environment Protection
Board;

21 Mr. David H. Searle, Q.C. for Northwest Territories
22 Chamber of Commerce

23 Mr. Murray Sigler for The Association of Munici-
palities;

24 Mr. John Ballem, Q.C. for Producer Companies;

25 Mrs. Joanne MacQuarrie, for Mental Health Association
26 of the Northwest Territor-
ies.

27 347
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29 Vol. 154

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I N D E X

Page

WITNESSES FOR INDIAN BROTHERHOOD & METIS ASSOCIATION:

Peter H.L. PUXLEY
Melville H. WATKINS
- In Chief

23527

EXHIBITS:

627 Qualifications & Evidence of P. Puxley 23573
628 Qualifications & Evidence of M. Watkins 23573

Puxley & Watkins
In Chief

Yellowknife, N.W.T.,

June 29, 1976

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: Well, ladies and gentlemen, I'll call the hearing to order. The Inquiry is resuming its formal hearings here in Yellowknife today; owing to the difficulties that counsel and witnesses have had in reaching Yellowknife for this morning's hearing, not all parties are represented, but those that are not represented have let us know that they are agreeable to the Inquiry proceeding, and I have indicated that what we will do is simply consider the evidence in chief of the witnesses Mr. Bell proposes to call, and postpone cross-examination until counsel have arrived.

So, Mr. Bell?

MR. BELL: Thank you, sir. I'd like to introduce our next panel, consisting of Mr. Peter Puxley and Mr. Mel Watkins.

PETER H.L. PUXLEY,

MELVILLE H. WATKINS, sworn:

DIRECT EXAMINATION BY MR. BELL:

Q If I could turn to you first, Mr. Puxley, you are a research consultant for the Indian Brotherhood of the Northwest Territories?

WITNESS PUXLEY: Yes.

Q You have a B.A. in Economics from Dalhousie University.

A That's right.

Puxley & Watkins
In Chief

1 Q You've done post-graduate
2 studies in economics at Clark University.

3 A That's right.

4 Q And post-graduate
5 studies in economics and geography at Oxford University.

6 A That's right.

7 Q And you have a Master of
8 Science in planning from the University of Toronto.

9 A That's right.

10 Q From 1969 to 1971 you
11 were the staff person in charge of the Great Slave
12 Lake project for the Company of Young Canadians here in
13 Yellowknife.

14 A That's right.

15 Q From 1971 to 1973 you
16 were a senior researcher with the Policy Planning Divi-
17 sion of Central Mortgage & Housing Corporation in
18 Ottawa.

19 A That's right.

20 Q And in June of 1973 you
21 joined the Indian Brotherhood in your present position.

22 A That's right.

23 Q You were the author of
24 the studies listed in the appendix to your summary of
25 evidence.

26 A That's right.

27 Q As well as the recipient
28 of the awards listed.

29 A That's right.

30

Puxley & Watkins
In Chief

1 Q Turning to you, Mr. Watkins
2 you are an economic consultant for the Indian Brother-
3 hood of the Northwest Territories?

4 WITNESS WATKINS: Yes.

5 Q And you are presently on
6 leave from your position as professor of economics at
7 the University of Toronto.

8 A Yes.

9 Q You have a Bachelor of
10 Commerce from the University of Toronto.

11 A Yes.

12 Q And you did post-graduate
13 studies in economics at the University of Toronto and
14 at the Massachussetts Institute of Technology.

15 A Yes.

16 Q In 1968 you joined the
17 University of Toronto, Department of Political Economy,
18 where you held various professorial positions and you
19 were appointed professor in 1970.

20 A That's right.

21 Q In 1967 and '68 you were
22 head of the Privy Council Task Force on the structure
23 of Canadian industry.

24 A Yes.

25 Q And in 1974 you joined
26 the Indian Brotherhood in your present capacity.

27 A Yes.

28 Q You are also the holder
29 or have held the positions listed in the appendix to
30 your summary of evidence.

Puxley & Watkins
In Chief

1 A That's right.

2 Q Including, in 1975-76
3 your membership on the Panel of Public Inquiry into
4 Northern Hydro Development sponsored by the Inter-church
5 Task Force on Northern Flooding in Manitoba.

6 A Yes.

7 Q And you are the author or
8 co-author of the publications listed on pages 2 to 4 of
9 the appendix to your summary of evidence.

10 A Yes, I am.

11 Q Mr. Puxley, would you
12 proceed, please?

13 WITNESS PUXLEY: The title of
14 my evidence is:

15 "Colonialism or Development: The Meaning
16 of Development."

17 As a white involved in what is
18 at least nominally a struggle for the recognition of
19 the rights of a non-white nation, I have constantly had
20 to address the question of why I should be involved at
21 all. I would like briefly to describe how I understand
22 my involvement, and why I believe a successful outcome
23 of the Dene rights struggle is in my interests, as it
24 is in the interests of all non-Dene Canadians. For in
25 the last analysis those who see something peculiar
26 about white people working with non-white political
27 organizations have a very narrow conception of their
28 own interest, and are completely unaware of their
29 relationship to (and responsibility for) the situation
30 of the Dene, and groups like them, a situation they seek

Puxley & Watkins
In Chief

1 to overcome.

2 Over the past few years I have
3 sought to understand the nature of a society which, in
4 spite of its obvious affluence, continues to exploit
5 and ride roughshod over so many of its members, all the
6 while appealing to some mythical "public interest".
7 Since the public interest clearly does not include my
8 interest, nor those of significant sectors of this society,
9 it seems to me to be a term well worth demystifying.
10 It has been my experience that the Dene struggle for
11 recognition helps to clarify the nature of the larger
12 reality all Canadians inhabit and can contribute to a
13 more authentic definition of public interest. Let me
14 explain why this is so.

15 The economics I studied in
16 university explained poverty and under-development as
17 conditions of marginality, suggesting that those who
18 suffered in this respect either lacked resources,
19 technology, education or some other civilized good,
20 or were so bound by tradition they could not take
21 advantage of the opportunities we -- the so-called
22 "developed" -- were so able to identify. Such explan-
23 ations implied that the marginal people, nations or
24 regions were somehow outside the modern economy or
25 society, and would, given time, be incorporated as
26 their internal hangups were overcome. Perhaps the
27 best example of this kind of reasoning at the level of
28 international economics was Walt Rostow, whose book,
29 "The Stages of Economic Growth"
30 allowed another generation of westerners to eat their
apple pies in peace.

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In Chief

1 The argument that there is no
2 causal relationship between so-called development and
3 under-development is increasingly under attack, and
4 rightly so. The suggestion that the major causes of
5 under-development are endemic to the under-developed
6 areas is an idea which has shown itself to be barren of
7 useful guidelines for solutions to the plight of the
8 so-called marginal peoples.

9 It is because I accept those
10 analyses which seek to explain under-development in
11 terms of its relationship to so-called development that
12 I have come to believe that the Dene struggle for recog-
13 nition of their rights has the potential to inform
14 Canadians on the true nature of their society. Similarly
15 I accept as given that any real change in the situation
16 of the Dene and by this I mean a change which results in
17 a real degree of political independence on their part,
18 will demand an accommodation on the other side of the
19 relationship, that is, from those forces now exercising
20 almost unlimited authority over Dene life.

21 However, to effect a signifi-
22 cant change in this relationship will involve, first
23 of all, understanding it in all its ramifications both
24 structural and psychological. This is the task ahead for
25 the Dene and one in which any Canadian has an interest.
26 In what follows then, I intend to describe what I know
27 of the colonial relationship between the Dene and non-
28 Dene. I hope to show how this relationship as long as
29 it goes unexamined, defines problems of development in
30 a manner which conceals their true nature and precludes

Puxley & Watkins
In Chief

1 their solution.

2 What I have come to recognize
3 through my involvement with the Dene is that the
4 colonial relationship is far more widespread than
5 western societies have been prepared to admit. I have
6 come to recognize not only the colonial nature of the
7 relationship between the Dene and the dominant society,
8 but also the colonial nature of the relationships I
9 have been a part of as a white middle-class Canadian.
10 These relationships pervade nearly all our social
11 institutions and thus condition us as a society to accept
12 the relationship we have with the Dene and indeed with
13 the Third World as a matter of course. If I am correct,
14 then the Dene struggle to overcome colonialism is much
15 more relevant to the non-Dene than has been recognized.

16 If it can be shown that the
17 product of a colonial relationship is dehumanization,
18 then we must assume that the relationship is opposed to
19 the development of not only the colonized, but also the
20 colonizer. If human life entails acting out a uniquely
21 human vocation, then the colonial relationship destroys
22 rather than creates life. In this regard, the assumption
23 that so-called social impact relates only to the exper-
24 ience of those who are unfortunate enough to be on the
25 receiving end of colonial projects is quite incorrect.
26 The social impact can also be determined in the lives
27 of those who serve this dehumanizing process.

28 To quote Freire:

29 "Every relationship of domination, of exploitation,
30 of oppression, is by definition violent whether or

Puxley & Watkins
In Chief

1 not the violence is expressed by drastic means.
2 In such a relationship, dominator and dominated
3 alike are reduced to things -- the former dehuman-
4 ized by an excess of power -- the latter by lack
5 of it. And things cannot love."

6 THE COMMISSIONER: Mr. Puxley,
7 who is Paulo Freire?

8 A Paulo Freire is a
9 Brazilian born priest and educator who undertook to
10 start a very radically different educational process
11 amongst the poor of north-east Brazil and was eventually
12 expelled from Brazil by the military dictatorship.

13 The ability of men to develop
14 themselves is dependent in part on their grasp of
15 reality, while it is the conscious action of men on
16 the world, in Fromm's words,
17 "...as subject and agent of one's power",
18 which is the source of their learning. In this regard,
19 Arctic Gas's contention that the construction of a pipe-
20 line would raise the political consciousness of the Dene
21 is particularly interesting. (See Section 14.C, page 8
22 for this). I will argue that consciousness-raising is
23 implicit in true development which is a process of
24 conscious action and reflection. However, I will conclude
25 that the proposed pipeline would only raise the conscious-
26 ness of the Dene in the same sense that a man hit on the
27 head with a hammer by another has a better idea of who
28 his enemy is. The experience is hardly likely to be
29 freely chosen in spite of such benefit!

30 Colonialism must be seen as an

Puxley & Watkins
In Chief

1 experience and not simply a structural relationship.
2 As such, it conditions both the colonizers and the
3 colonized. A generation of Dene has now spent the
4 better part of their young lives in colonial institu-
5 tions while a colonial system of government as Wilf
6 Bean pointed out earlier in this Inquiry, is well estab-
7 lished even at the community level in the areas of
8 housing, welfare and settlement councils. This exper-
9 ience has been costly, breeding assumptions of
10 cultural inferiority (or superiority) and eliciting
11 racist analyses by both the white and Dene populations.

12 Only a thorough understanding
13 of the nature of the colonial relationship and its
14 opposition to human development will eliminate this
15 legacy. Removal of colonial structures and their replace-
16 ment by independent Dene institutions and the resources
17 to make them effective will not, in itself, result in
18 the elimination of the psychology of colonialism. This
19 will take longer and can only take place in a population
20 which has experienced true development at an individual
21 level, and has built into its work processes the ability
22 to reflect on and understand the nature of such
23 experience, so as better to institute such a process as
24 a permanent feature of its social life.

25 I would like to draw attention
26 once again to what many Dene witnesses have already
27 clearly pointed out in both the community hearings and the
28 formal hearings. (Here I refer in particular to the
29 recent testimony on the land use panel of Phoebe Nahanni
30 and Charlie Snowshoe.) And that is to the relatively

Puxley & Watkins
In Chief

recent but nevertheless substantial intrusion on their lives of colonialism. The applicants, in their supporting material, have come to certain conclusions on the basis of data drawn from this colonial experience. Even if we were to accept the validity of their data (which many witnesses have suggested is questionable) we would have to recognize that any projection of the Dene future they make on the basis of a colonized past implies a continuation of colonialism. The Dene, on the other hand, have made it quite clear that their colonial experience was not of their choosing, nor can they accept its continuation into the future. The Dene assume a decolonized future supported by recognition of their political and property rights. What they seek to establish is a process of true development in place of colonial dehumanization.

Development is above all a process of shattering illusions which are the product of relations amongst men. Unless all parties to this debate are prepared to recognize the reality of their own conditioning, and approach the arguments presented with that in mind, the outcome of both the pipeline issue and the aboriginal rights issue will be an imposed solution in the colonial tradition.

Puxley, Watkins
In Chief

1 I would like to believe that
2 that
3 the fact the opposing parties in this debate all espouse
4 the cause of development, preservation of culture and
5 independence and yet come to different conclusions with
6 regards to the proposed project, is not a sign of bad
7 intentions or misrepresentation by one side or the other.
8 Rather, I would prefer to understand such disagreements
9 as stemming from illusions held by each concerning the
10 real meaning of these words, illusions which it is in
11 the interest of this Inquiry to shatter and replace with
12 a better understanding of reality. In this sense, the
13 Inquiry itself is a laboratory for understanding the
14 nature of development, as preconceptions and conditioned
15 responses challenge us to see them for what they are.
16 Such is the challenge of development in its truly human
17 sense. Let me examine the nature of these illusions and
preconceptions further.

Who is really bound by tradition?

Reason may be applied to two essentially different purposes. First, it may be applied in the continuous elaboration and redefinition of reality as we experience it. Used in this way, reason turns its critical eye on everything. Nothing is given or for granted. This is reason in the service of human development. Reason at this level deals with such questions as the nature and purpose of man and what constitutes the good life.

Reason may be used in quite another way, as a designer or mechanic might use it to improve the workings of a machine who's existence he does not question. Within this limited framework, what

Puxley, Watkins
In Chief

1 is good or bad becomes defined in terms of what
2 satisfies the need of the machine to work
3 efficiently. The question of whether the machine
4 serves the purposes of men or not need never be addressed
5 if one views one's role simply as that of a mechanic
6 rather than more broadly as a member of the human
7 race.

8 A society whose ideological
9 underpinnings are no longer the object of other than
10 academic consideration, while its ideology demands
11 reason merely in the service of efficiency, the society
12 out of control from any humanist perspective. Such a
13 society is a prisoner of its ideology, defining men
14 in terms of their fit with the ideological machine
15 and however much it claims to value human freedom and
16 enterprise, the truth is that it cannot afford non-
17 conformity. Describing such a society Canadian
18 philosopher, George Grant had this to say:

19 "The old idea that the truth shall make you
20 free, that is the view of reason as the way in
21 which we discover the meaning of our lives and
22 make that meaning our own, has almost entirely
23 disappeared. In place of it we have substituted
24 the idea of reason as a subjective tool, helping
25 us in production, in the guidance of the masses,
26 and in the maintenance of our power against
27 rival empires.

28 I simply wish to emphasize
29 that this philosophy, with its view of reason as
30 an instrument mirrors the actual life of our

Puxley, Watkins
In Chief

1 continent, in which individual freedom is
2 subordinate to conformity.

3 Such an account of reason
4 goes so deep into the modern consciousness
5 that any other account is very difficult for
6 a modern man to understand at all. Therefore,
7 only by constant and relentless reflection on
8 this modern idea can we hope to liberate our-
9 selves from the naive acceptance of it."

10 Grant was not describing some
11 vision of the future, but Canada of 1959. His des-
12 cription has become all the more accurate today, as
13 our technology and advanced capitalist organization
14 increasingly march to the tune of their own imperative
15 it becomes more and more difficult to accept their
16 demands as reasonable. In fact, the use of the higher
17 order of reason, which assesses reality in terms of
18 human nature and purpose becomes necessary to our
19 survival as well as the survival of the Dene.

20 Viewing the problem of colon-
21 ialism from this perspective, as an ideological machine
22 which has not only the Dene but our society as a whole,
23 in its grip, has the effect of turning many colonial
24 ideas on their head. The suggestion that the Dene
25 culture is traditional, a thing of the past, becomes
26 a joke. To one involved in the Dene struggle to
27 assert their right to survive, it is quite clear the
28 Canadian society, and the corporations whose imperatives
29 define our choices are the real traditionals today.

30 The Dene proclaim a new future,

Puxley, Watkins
In Chief

1 while the oil companies and the federal government
2 keep turning to the past. They are the ones to whom
3 the phrase

4 "You cannot go back to your traditional ways"
5 is truly applicable.

6 Bearing these ideas in mind,
7 I will commence my discussion of human development from
8 the perspective of the nature of man. I'll then go
9 on to describe the present colonial reality from that
10 perspective in an effort to redefine the issues before
11 the Inquiry.

12 The process of human develop-
13 ment. We could begin with another quote from Freire.

14 "...while both humanization and dehumanization,
15 are real alternatives, only the first is man's
16 vocation."

17 On various occasions the
18 different parties involved in the debate over the
19 issue of the proposed pipelines along the Mackenzie
20 Valley have all attested to a desire to ensure that
21 the development of the Dene and preservation of their
22 culture would remain high on their list of priorities,
23 should the pipeline be approved. Beyond this, both
24 the government and the oil companies have argued that
25 the project will in fact benefit the Dene in spite of
26 the latter's opposition to it and notwithstanding some
27 acknowledged cost in the realm of social disruption.

28 Although there has been an
29 ill informed suggestion at times that the Dene oppose
30 "development", the truth is, if one took the pronounce-

Puxley, Watkins
In Chief

1 ments of the applicants and the governments intentions
2 with regard to development in Dene culture and compared
3 them with Dene pronouncements, there would appear to
4 be little disagreement on the face of it. The reality
5 we know is otherwise, and it is clear that the same
6 words are used by the different parties in very differ-
7 ent ways.

8 Can we simply dismiss such
9 confusion as being due to the subjective nature of
10 the problem? Can we say that it is simply a matter
11 of opinion, whether the pipeline will result in the
12 development of the Dene and the continuation of Dene
13 culture? On the contrary. I will show that the meaning
14 of development is, on reflection, quite precise and
15 universally applicable.

16 The effort to uncover the
17 criteria according to which any change may be judged
18 progressive or developmental, or regressive and dehuman-
19 izing is essential if we are to take the discussion
20 out of the realm of subjectivity, where political
21 power rather than reason, may be allowed to define the
22 issue.

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Puxley & Watkins
In Chief

1 The term "development" has
2 come to be used very loosely indeed. While the purpose
3 of human life is the development of mankind, the term
4 "development" has mostly lost contact with this human
5 purpose and now refers mainly to quantitative or
6 physical change, regardless of its relationship to the
7 needs of men. As I pointed out above, the suggestion
8 has even been made that the Dene oppose development, as
9 if development were something that could be defined
10 without reference to the Dene, something with a life
11 of its own. The truth is that no healthy human being
12 opposes his own development. On the contrary, all
13 human beings by nature seek to develop.

14 Men develop themselves. They
15 are not developed, or subject to development by others.
16 The word "development" can only describe that process
17 through which men develop. For example, a man cannot,
18 as the saying goes, "develop economically". A corpora-
19 tion can, a mine can, but a man cannot be regarded as
20 an object in the same sense without destroying what
21 makes him a man, uniquely human. Men, rather than
22 developing economically, can meet their material needs
23 in a manner which contributes to their development as
24 men, or in a manner which dehumanizes them.

25 What sets man apart? What is
26 the essence of being human? And what, therefore, does
27 the development of men consist?

28 What makes man human and
29 unique is his ability for conscious action on his
30 world, his ability to choose between alternative acts.

Puxley & Watkins
In Chief

Unlike the beaver, who for thousands of years has acted on his environment in precisely the same fashion, "a man's life cannot be lived by repeating the pattern of his species; he must live...Man is the only animal who finds his existence a problem which he has to solve and from which he cannot escape."

Unlike the beaver, who exists in what Freire calls a "one-dimensional today of which he has no consciousness", man is able to perceive himself in the context of his own history, shaped by his past, but transcending it in his efforts to create his future. Since it is conscious action which makes man unique, it would be worth our while examining briefly what this term entails for a process of development.

Man's ability to develop, to become more human, in the sense of acting on his world with greater efficacy, derives from and is based on his critical capacity -- his ability to reflect on and understand his experience so as to inform his choices. Critical capacity depends on and breeds a sense of self-worth. It derives from a recognition that one's own experience is the source of understanding the world. To approach the world critically means to approach the world with man as the standard. This involves understanding that it is man who creates his own world, and that this act of creation is the human act. Conversely, this involves understanding that the creations of man cannot be permitted to become larger than man, in the sense of controlling him, demanding that he fit their

Puxley & Watkins
In Chief

specifications, for such is to rob him of his uniquely human capacity to develop himself, to make his own history.

The process of development can be seen as a continuous effort to address the contradiction between one's idea of reality and one's experience of reality. To the extent that we cling to one idea of reality, and fight any threat to that idea, we become prisoners of our own creation and repress that which is most human in ourselves; our ability to transcend the given.

From this it is implicit that development is an internal process, of development out of rather than development by. Just as development cannot occur where one idea dominates us and stands between us and a better understanding of reality, so development cannot occur when someone else and their idea dominates us. Development and political freedom are synonymous.

The process of human development then is a process where informed and conscious action leads to experience which on critical reflection leads to a new consciousness which once more expresses itself in action. Action, reflection, consciousness, choice, these are the essential ingredients of being human. Human existence is thus a process, "a vocation" in Freire's words. That vocation can also be seen as the creation and recreation of man, the record of which is history and the expression of which is culture.

I'd like now to go into some

Puxley & Watkins
In Chief

1 of the analysis of what a colonial relationship entails.
2 At the level of the individual, the essence of the col-
3 onial relationship may be understood in those situations
4 where one individual is forced to relate to another
5 on terms unilaterally defined by the other. The
6 relationship is not negotiated, with each party having
7 a say in its purpose. Where a contract exists, it
8 merely states the terms under which one party virtually
9 becomes the property of the other. The attitude of
10 the colonialist to the colonized can best be apprecia-
11 ted as the attitude of a property owner to his property.
12 Such colonial assumptions prevent the colonialist
13 from accepting any move toward real autonomy on the part
14 of the colonized. Any such move is either ignored,
15 defined as unacceptable, or reprimanded, depending on
16 the degree of institutionalization of the relationship.

17 For example, in the applicant's
18 supporting material the assumption exists that one issue
19 for the Dene is whether they oppose or adapt to
20 inevitable change (see particularly 14.c pages 5 to 7,
21 Van Ginkle Associates study, pages 7 to 8, and 10 to 12).
22 This assumption completely ignores the possibility that
23 the Dene do indeed favor change, but in this case a
24 change in the present colonial relationship which
25 results in their facing constantly a future determined
26 by others.

27 The assumption that change is
28 defined and initiated unilaterally is itself character-
29 istic of the colonialist mentality, natural in the
30 context of the colonial relationship. It is indeed

Puxley & Watkins
In Chief

the pervading quality of any relationship where one party is used to making decisions for another. It affects the Federal Government approach to Indians. Here the Federal Government is constantly suggesting that its Indian people -- that it is Indian people who oppose change, while in fact here in the north the Dene are arguing for a change in the historical approach to aboriginal rights from the destructive colonial interpretation imposed by the invading society to one which recognizes decolonization as its goal. But the colonial assumption exists much more widely in our society. It is equally characteristic of bureaucratic relationships, both within bureaucracies and between bureaucracies and their so-called clients. All such relationships may be viewed as over-determined by their colonial conditioning.

Puxley & Watkins
In Chief

Quite the opposite of what we have defined as the ideal of human existence - conscious action - the behavior of colonized men is prescribed behavior. We have defined human development as a process of Action - Reflection - Consciousness - Choice. The colonial relationship however, is maintained by replacing human consciousness which is the awareness of the human vocation of man as subject and creator of his world with a colonial false-consciousness with its dehumanized concept of man as object rather than subject of his world and with its natural concomitants at the social level; racism and cultural superiority.

False consciousness, or "selective inatttention" as R. D. Laing calls it, "...as it becomes systematized, is ideology: the system of beliefs by which members of a social group ... develop a way of seeing and interpreting what they see congruent with what they have come to define as their interests: while denying or providing no validation - perhaps even no language - for sensations that if allowed to become perceptions and then ideas, would threaten those interests."

It is this irrational, psychological aspect of colonial relationships which so often escapes our consciousness and which is the key to understanding the process of decolonization.

The idea of colonial false-consciousness is so important I'd like to spend a little

Puxley & Watkins
In Chief

1 time just to further elaborating that. I'd like to
2 begin with two contrasting quotes; the first one
3 taken from the study by Van Ginkle Associates for
4 Arctic Gas and the other from an interview with Daniel
5 Ellsberg. First, the Van Ginkle Associates quotation.

6 "The devaluation of the currency of the nation,
7 a rise or a decline in the price of fur, a favor-
8 able or unfavorable shift in the balance of pay-
9 ments, a relevant technological breakthrough --
10 the individual has no more capacity to alter those
11 events than he has to halt the forward progress of
12 a cruising space vehicle. As an individual,
13 the Mackenzie Valley inhabitant shares with his
14 fellow citizens of the world an inability to control
15 many of the events which may affect his life and,
16 equally, he shares an inability to halt change."

17 Now, Daniel Ellsberg:

18 "I've become more and more conscious of how many
19 people feel powerless in this country, and I
20 suspect increasingly it's because they've been
21 told they're powerless for a long time, all their
22 lives."

23 As we've stressed, colonialism
24 must be seen as a relationship which engenders a certain
25 experience in both parties involved. Such experience,
26 in turn, determines the consciousness of both the
27 colonizer and the colonized. Any effort to change this
28 relationship will therefore result in a change in
29 consciousness on both sides. Perceiving this dialectic
30 between colonizer and colonized is essential to replacing

Puxley & Watkins
In Chief

colonial dehumanization with true human development.

Let us give an example:

The Van Gindle Study for Arctic Gas quotes approvingly a remark of Benjamin Disraeli (though why Disraeli, I'm not at all certain) to the effect that:

"Change is inevitable."

Nothing more. This mindless platitude, devoid of qualitative content typifies the fatalism of colonial false-consciousness. A truly human consciousness is critical, and implicit in it is the awareness of choice between humanizing and dehumanizing alternatives. Consciousness devoid of its implication for man's ability to humanize or change his circumstances is meaningless.

The Van Ginkle Study goes on to suggest that the Dene share with their fellow men an inability to exercise control over the changes they experience or will experience in future. Choice, it would seem, is non-existent. Adaptation is their only vocation. No argument could better represent the choice posed by this pipeline than that put forward by those Darwinists-in-reverse, the Van Ginkles. The choice is quite simply between a future which recognizes the uniquely human possibility of development (Action - Reflection - Consciousness and Choice), or a future which condemns men to the experience of the beaver. The Van Ginkle argument must be seen for what it is -- a mere rationalization for dehumanization.

The kind of illogical conclusions these assumptions lead one to may be seen from these

Puxley & Watkins
In Chief

1 further remarks in the Van Ginkle study:

2 "The extent and the nature of the impact of any
3 event may also depend upon the manner in which
4 the community adjusts or accommodates -- on the
5 resilience of the people and the capacity of the
6 community to turn the resultants of an action to
7 its own advantage.... In the final analysis, the
8 impact of any event depends in large measure on
9 the determination to maximize new opportunities.
10 The event, of itself, does not dictate whether
11 advantage or disadvantage will accrue to the
12 people and community; this is dictated by the
13 reaction to the event."

14 Could there be a more perfect
15 example of colonial thought, a more obvious abdication
16 of responsibility than the ludicrous suggestion that a
17 community is responsible for the outcome of decisions
18 over which it has no control? This is Walt Rostow
19 carried to his logical extreme. One person, on reading
20 this passage wryly referred to it as the "Hiroshima
21 Theory", according to which those we have come to view
22 as victims of the bomb simply reacted inappropriately!

23 The fact that such an argument
24 could be put forward seriously and I am sure with all
25 good intentions, gives us a further insight into the
26 nature of consciousness. It is only in a colonial world
27 that such a suggestion could be made. Consciousness
28 is bred of experience. It is natural therefore that the
29 colonialist consciousness, bred of a dehumanizing
30 relationship, should exhibit dehumanizing assumptions.

Puxley & Watkins
In Chief

1 While the short-term material
2 interest of those who support the applicants' proposal
3 is served by such rationalization, the long-term interests
4 of these same people as human beings can only be met by
5 a change in the colonial relationship. The efforts of
6 the Dene to decolonize and others to decolonize them-
7 selves will eventually lead to such a change of con-
8 sciousness in the direction of humanization on the
9 part of those who prepared the Van Ginkle study.

10 Might I add that what I have argued with regard to the
11 Van Ginkles naturally applies to the consciousness of
12 Canadians in general, bred of a dehumanizing relation-
13 ship to aboriginal people in the country as a whole.

14 I'd now like to examine the
15 concepts of culture, history and their relationship to
16 colonialism.

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Puxley & Watkins
In Chief

I begin with a quote from
Orwell's 1984:

"Who controls the past controls the future.

And who controls the present controls the past."

An understanding of what
culture really is would seem essential to this Inquiry
since not only the Dene but also the Federal Government
and the applicants have argued that the preservation
of Dene culture is something they support. Let me
simply say that culture lives in men, not museums. It
is what people do together. The preservation of Dene
culture implies necessarily recognition of the way the
Dene define themselves. Only the Dene can define their
culture, and Dene culture is alive today to the extent
that the Dene announce their own identity. For this
reason, the united Dene struggle for recognition of
their rights is every bit as much a cultural act as
making a skin boat or holding a drum dance. Dene
culture will exist as long as there are people who
define themselves as Dene, and Dene culture will be
what they do together.

It is the shared experience
from conscious united action which makes Dene culture
a living reality. Anyone who thinks culture is repre-
sented simply by artifacts and dying rituals is a
prisoner of colonial consciousness. This is true be-
cause it is characteristic of a colonial relationship
that it deprives men of their sense of themselves
today, relegating their identity to a thing of the past.
Only consciously active men have a culture and a

Puxley & Watkins
In Chief

1 history that defines them.

2 To quote Amilcar Cabral:- it
3 was quoted earlier by John Sol, he is a leader of the
4 movement for the liberation of Portuguese Guinea, who
5 was assassinated before the success of that movement.

6 "It is not possible to harmonize the economic
7 and political domination of a people, whatever
8 may be the degree of their social development,
9 with the preservation of their cultural person-
10 ality."

11 And again Freire:

12 "There is no history without men, and no
13 history for men; there is only history of
14 men, made by men and in turn making them.
15 It is when ... majorities are denied their
16 right to participate in history as subjects
17 that they become dominated and alienated...
18 to supercede their condition as objects by
19 the status of subjects requires that the
20 people act; as well as reflect, upon the
21 reality to be transformed."

22 Colonial men do not act
23 autonomously. They must be satisfied with the illusion
24 of acting through the actions of others. They merely
25 perform a role defined for them in someone else's
26 game plan. In this sense, they are men without
27 history. Since history is the creation of conscious-
28 ly active men, those whose behaviour is prescribed
29 cannot be said to be making their own history. Colon-
30 ialism is thus the theft of human history. To

Puxley & Watkins
In Chief

1 understand this is to understand that the first act on
2 the part of a colonized person or group to decolonize
3 themselves is itself a return to the human vocation of
4 making history.

5 No better example of colonialism
6 as the negation of history can be found than the erasure
7 of Dene place-names throughout the Mackenzie District,
8 and their replacement by those of the colonialists --
9 though I've been corrected on this. Of course perhaps
10 a better example is the use of Christian names and the
11 loss of Dene names. Faced daily with such crude
12 misnomers as that of the Mackenzie River, the Dene
13 suffer a constant implicit denigration of their own
14 past, and a suggestion that the future is not theirs
15 to announce.

16 Perhaps the most serious exam-
17 ple has already been alluded to in earlier testimony
18 before this Inquiry; the evidence of Barnaby, Kurszewski
19 and Cheezie documents clearly the negation of thousands
20 of years of democratic experience on the part of the
21 Dene exemplified by the presumptuous imposition of
22 alien political institutions. Nowhere is this presump-
23 tion more blatant than in this Federal Government
24 pamphlet instructing native people on how to run a
25 meeting. This is a colonial prescription carried to
26 the extreme. Is it surprising that the Dene demand
27 for recognition of their political rights falls on
28 deaf ears in that quarter?

29 It should be clear from the
30 foregoing why colonialism has been described as the

Puxley & Watkins
In Chief

1 theft of history. Equally it should be clear why
2 colonialism is incompatible with the continuation and
3 preservation of Dene culture. Those who truly
4 support the latter objective will recognize colonialism
5 as the problem and work to overcome it. This will be
6 the test of their sincerity.

7 From all we have said, it
8 should go without saying that the development process we
9 have outlined as the uniquely human possibility cannot
10 be instituted in a world where the present and future
11 are determined by forces outside of the community, or
12 outside of the individuals who compose it. Quite simply,
13 political control giving men the freedom to determine
14 their relationships and the work they will choose to
15 do together is implicit in the process of human develop-
16 ment. The ability to reflect on one's circumstances
17 is useless if the political capacity to redirect the
18 course of development in one's community is absent.

19 The Dene demand for recognition
20 of political rights is nothing more nor less than
21 recognition that this is an essential enabling element
22 in their own development, and in the continuation of
23 their culture and history.

24 There's an example of the
25 existence of colonial relationships apart from that
26 between the dominant society and the Dene, I'd like
27 briefly to describe the nature of colonial relationships
28 in bureaucracies. The colonial relationship is not
29 limited to relationships between cultures, as we have
30 already stated. It is the pattern of relationships

Puxley & Watkins
In Chief

1 within bureaucracies in general. It is the nature
2 of colonialism to reward those who show a readiness to
3 subsume their own true interest, that is the development
4 of themselves as autonomous creative human beings, to
5 the requirements of an external purpose. Those who
6 serve give up the discovery of their human potency
7 in exchange for security and the vicarious sharing in
8 the power of the bureaucracy itself, whatever purpose
9 it serves.

10 Here is how Daniel Ellsberg
11 came to understand the readiness of Bureaucrats to
12 serve the purposes of others:

13 "There are two parts to the message they hear:
14 One part is, by yourself you're powerless. The
15 other side is: If you join up you can share
16 in their power, you can plug in. The power
17 will flow through you; at least you'll be part
18 of it. That double notion has a very great
19 coercive effect in itself. It makes people
20 terrified of the idea of being cut off from
21 that machine. It's a kind of fear, a social
22 control that does not merely mean 'I'm going
23 to have trouble finding a job if I lose this
24 one,' or 'What will my friends say?' But an
25 emotional vague gut fear, horror at the idea
26 of being cut off.

27 Those men have a self-image of powerlessness
28 except as loyal servants not of the constitution,
29 not of their countrymen, not of humanity, but
30 of the man who hired them."

What Ellsberg is describing is the dynamics of colonial relationships and as such could be applied with little or no alteration to any number of colonial situations. What I wish to point out here is that colonialism is not simply a Dene problem, it is our problem.

Puxley, Watkins
In Chief

1 The stability of bureaucracy,
2 in spite of its dehumanizing nature, can only be under-
3 stood in terms of its ability to remove from those
4 who work within the sense of responsibility for the
5 purpose they contribute to. Similarly, the absense
6 of critical consciousness can be understood first, as
7 being essential to the maintenance of an authoritarian
8 structure, which exploits the energy of many, for the
9 purposes of few and secondly, as essential to the
10 sanity and security of those who seek to avoid the
11 truth of their own responsibility, their own humanity.

12 Let me quote here another
13 famous bureaucrat, who had many years in prison to
14 reflect on how he was able to evade responsibility
15 for the purposes he served, Albert Speer, I quote:

16 "The ordinary part member was being taught that
17 grand policy was much too complex for thim to
18 judge it. Consequently, one felt one was being
19 represented, never called upon to take personal
20 responsibility. The whole structure of the
21 system was aimed at preventing conflicts of
22 conscience from even arising."

23 However, Speer also recognized
24 that,

25 "If I was isolated, I determined the degree of
26 my own isolation. If I was ignorant, I ensured
27 my own ignorance. If I did not see, it was
28 because I did not want to see."

29 It has been necessary to
30 emphasize the dehumanizing aspect of the colonial

Puxley, Watkins
In Chief

1 relationship on those who served the colonialist
2 interest, in order to bring home the point that so-
3 called social impact of colonial development must
4 be recognized as affecting all those involved, and
5 not simply those who opposed colonial interests.

6 I'd now like to address the
7 question of decolonization, the task of decolonization.

8 The idea of consciousness is
9 more complicated yet. If a colonial relationship
10 conditions and determines the consciousness of those
11 involved, how does decolonization come about?

12 It would be relatively easy
13 to answer and since men have the capacity to reflect
14 on the fact of their conditioning, they are then able
15 to transcend such condition in the direction of libera-
16 tion. This is, of course, true, but does not account
17 for the reality of the continuation and stability of
18 the colonial relationships which permeate our society.
19 Clearly, relationships of dependency, unhealthy and
20 destructive though they may be to the human beings
21 involved, derive their strength from strong irrational
22 and unconscious impulses on both sides.

23 In a society where such
24 relationships are the general rule, as in a colonial
25 society, the man who accepts the challenge of his own
26 freedom has to face the fear of tremendous loneliness
27 isolation and the experience of the outsider. Shouldering
28 responsibility for ones own self, in a bureaucratic
29 world, where institutions appear to serve chiefly the
30 function of relieving men of the burden of responsibility

Puxley, Watkins
In Chief

1 in the name of a higher authority, is a challenge few
2 have the courage to accept, here in the North, or in
3 the country as a whole. It is in this context that
4 the Dene assertion of Nationhood must be understood as
5 providing the collective support and the mobilizing
6 idea needed in facing the challenge of freedom.

7 I do not intend here to delve
8 deeply into the psychology of dependancy relationships.
9 Books have been written on the subject. I refer
10 especially to the works of Eric Fromm, Manoni, Memmi,
11 Fannon and others. I've also briefly alluded to the
12 psychology of bureaucratic colonialism above. I mean
13 only to suggest that overemphasis on structural change,
14 while ignoring the intractable, irrational and psycho-
15 logical aspects of dependency serves only the cause
16 of dehumanization.

17 This is so because the process
18 of development is mystified and the exploitative
19 relationships continue under a new guise. Such is the
20 nature of neo-colonialism. Perhaps the best examples
21 of this are recent land settlements like the Alaska
22 settlement, which have ignored the development process
23 and have imposed a certain structure on aboriginal
24 people totally alien to their experience. I speak of
25 development corporations and the like. Such land
26 settlements are truly colonialism in a different costume.

27 It is here that the expectation
28 on the part of the federal government and certain
29 participants in the Inquiry, that the Dene should be
30 able to respond as if to a questionnaire, with a detailed

Puxley, Watkins
In Chief

description of a "land claim", so thoroughly misses the point. The Dene have announced their intention to decolonize themselves. They have also insisted that a land settlement must make real development, Dene development, a possibility. They are much more realistic than the federal government when they recognized that their first task will be to come to terms with their colonial experience in a long-term effort to rebuild their nation on the principles of non-exploitative development.

When the nature of colonialism, as a relationship and an experience is fully grasped, the unreality of expecting, today, of a colonized people the complete blueprint for their decolonization should be evident.

What the Dene have asserted is their right to develop and their intention to pursue that objective. It is a right which more Canadians would do well to assert.

The first task for the Dene then, and this takes a great deal of time and effort, is to identify and discard colonial conditioning, that element of their identity prescribed by the colonial relationship. Then, armed with a more authentic definition of their interests, the Dene will be in a position to plan the course of their own development.

Let me quote Eric Fromm in this regard once more, I quote:

"Modern man lives under the illusion that he knows that he wants, while he actually wants

what he is supposed to want. In order to accept this it is necessary to realize that to know what one really wants is not comparatively easy, as most people think, but one of the most difficult problems any human being has to solve. It is a task we frantically try to avoid by accepting ready-made goals as though they were our own. Modern man is ready to take great risks when he tries to achieve the aims which are supposed to be his, but he is deeply afraid of taking the risk and responsibility of giving himself his own aims."

What the Dene are setting out to accomplish is therefore no mean task and will entail a struggle within their own community long after the struggle with non-Dene society is resolved.

Recognition of the necessity for this struggle is difficult for any Canadians who have not come to terms with the colonial problem in their own lives, let alone for those whose short-term interest is served by the continuation of colonial relations. Yet, understanding the nature of the Dene rights position depends on an understanding of the colonial relationship and its legacy of conditioning. What the Dene are really demanding is not so much an aboriginal right, but a human right. The right to undertake decolonization, or as it may be understood in a positive sense, the right to develop.

Contrast once more, the idea

Puxley, Watkins
In Chief

of colonialism and decolonization, I'd like to use the two examples of language and education. First off, language.

The nature of colonialism and the key to decolonization can best be understood if we examine the area of language. Man, in the process of human existence, puts his unique stamp on the world around him. His culture, at any point of time, embodying all that he creates, both in the realm of physical change and in the realm of institutions, ideas and language, exhibits his understanding of himself and his world. These products of man's conscious activity constitute his vocabulary broadly defined. His development derives from his consciousness of this vocabulary and from his efforts to transcend or redefine it in the light of his experience. It stands to reason then, that for development to occur, this vocabulary must be integral to the men concerned. It must be theirs.

Under colonialism, such development is impossible since the terms of the vocabulary are prescribed from without.

A lengthy colonial experience not only deprives people of their right to define their experience authentically, but even deprives them of consciousness of such a right. This describes why so much that is vital to the human experience of development is, under colonialism, defined as the realm of the other.

In embarking on a course of

Puxley, Watkins
In Chief

1 development and decolonization, the Dene have begun
2 to reject the prescribed colonial language in favour
3 of terms which fit their experience and new conscious-
4 ness of their relationship to the world. To describe
5 the world is the human function. Men can only describe
6 their world through the use of words they create or
7 own. Words do not, of themselves, have this ability.
8 For example, the word progress does not describe the
9 same kind of change for all men in a colonial world.
10 What is considered progress by some may be oppression
11 for others. Words are like tools and must serve the
12 purposes of men and not the reverse. In a colonial
13 relationship, between oppressor and oppressed, the
14 same word cannot serve the purpose of both colonialist
15 and colonized, since their experiences and interests
16 differ.

17
18 In the ideal democratic and
19 egalitarian society, the imposition of definitions
20 becomes impossible, while under colonialism the majority
21 have lost their right to name the world.

22 The act of reasserting one's
23 right to define the world, as exemplified by the Dene
24 Declaration, and by many of the Dene witnesses who
25 have appeared here at this Inquiry, is naturally up-
26 setting to those whose short-term interest is served
27 by the continuation of colonial prescription and
28 exploitation. Recent reactions to efforts of the Dene
29 to describe their experience in a more authentic
30 terminology, must be judged in the light of the disinte-
gration of the colonial relationship. The power of

Puxley, Watkins
In Chief

1 those who are used to naming the world for others is
2 being undermined and the reaction is defensive.
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Puxley & Watkins
In Chief

1 Look at the words "land claims".
2 Anyone familiar with the way the Dene view their land
3 would understand that this term in no way characterizes
4 what they conceive of as the struggle for their rights.
5 The term suggests that the Federal Government in fact
6 holds all the land by right and the Dene have already
7 conceded and the Dene wish to claim some of it in
8 compensation in return. Not only does this misrepresent
9 the Dene Concept of land, but it totally ignores the
10 element of political rights so vital to the decoloniza-
11 tion of the Dene.

12 The phrase "participation in
13 development" is one with which we are all familiar.
14 This phrase exemplifies an alienated understanding of
15 the term "development". A non-alienated understanding
16 will see the phrase "participation in development" in
17 two ways: first as redundant, since true development
18 is something free and conscious men undertake themselves
19 and participation is implicit, but secondly, the phrase
20 exhibits the nature of its origin. It is clearly the
21 product of a colonial consciousness where it is
22 assumed that what constitutes "development" will be
23 defined by one interest for another. The colonized man
24 is then magnanimously invited to play his pre-determined
25 role. The phrase "participation in development" is more
26 accurately redefined as "participation in colonialism".

27 The Dene are therefore not
28 simply arguing for "participation in development", that
29 is, "participation in coloialism", but rather for the
30 right to develop. Where the colonial relationship

Puxley & Watkins
In Chief

1 means having the terms of the relationship defined by
2 the other, the Dene demand for the right of self-
3 determination is a demand for the right to define
4 the terms of their relationship to others. Insistence
5 on a colonial definition of the Dene rights struggle
6 precludes the possibility of decolonizing the Dene
7 through negotiation. Unless the nature of the colonial
8 relationship is grasped at this fundamental level, the
9 Dene will be left with the colonial non-choice of
10 "negotiating the extinguishment of their rights".

11 "Negotiating the extinguishment
12 of rights" is a phrase which is ludicrous outside the
13 context of a colonial relationship. The Dene at the
14 community level have long struggled with trying to
15 comprehend why, if they have these rights, "negotiation"
16 is even required.

17 Alexis Arrowmaker, former
18 Chief of the Dogribs makes this quite clear when he
19 says:

20 "Indian people have their own society in which
21 their relationship to land is crucial. The
22 meaning of ownership is very important to this
23 Indian idea. Cabinet ministers do not understand
24 this Indian concept or the way we see ourselves in
25 relation to this land. They are stuck inside their
26 own society and concepts, and they try to impose
27 their view on us. We cannot compromise because it
28 means giving up our concept and accepting theirs.
29 We are not taking only about land, but also about
30 Dene people and how we see ourselves as a group."

Puxley & Watkins
In Chief

1 A leadership seeking to de-
2 colonize the Dene must define the struggle in only one
3 way, a struggle for recognition. A leadership prepared
4 to accept a neo-colonial solution can entertain the
5 concept of "extinguishing rights", but if they do so,
6 they cannot involve their own people in any conscious
7 way in such an exercise. This is so because no man
8 will consciously extinguish his right to be through nego-
9 tiation. The colonialist tends to view as unrepresenta-
10 tive any leadership which questions the colonial rela-
11 tionship. However, the irony of it is the only represen-
12 tative leadership in the sense of representing the
13 interests of the Dene as human beings must view
14 decolonization as the issue.

15 I think it's interesting to
16 remark at this point the development that has taken
17 place in the Yukon where there was a definite effort
18 to achieve a settlement without involving the people
19 and the nature of the settlement quite clearly was one
20 of a neo-colonial nature. I think that there is a lesson
21 in that event which would be well learned in the
22 approach to the Dene rights situation.

23 As with the issue of the
24 pipeline proposal, the Dene rights issue boils down
25 to whether or not one defines the problem in the terms
26 of colonialism or recognizes the limitations of
27 such a definition and seeks a solution in the context
28 of a process of true development and decolonization.
29 This distinction is dependent on overcoming the
30 colonial consciousness evident on both sides of the

Puxley & Watkins
In Chief

1 issue. Here it is more difficult to see why this should
2 be in the interests of the applicants or those within
3 the Federal Government whose interests may be best
4 served by continuation of the colonial relationship.
5 The experience of colonialism is an experience of
6 alienation. We have given some examples from the man-
7 made world of words. The fact that the term "land
8 claims" does not define the Dene conception of their
9 situation which they conceive as a situation where
10 their rights as a people are being ignored, has more
11 practical ramifications. As long as the term continues
12 to be used by the Dene themselves, they are left in
13 the paradoxical situation of having someone versed in
14 non-Dene concepts define its meaning. It is not
15 unusual for some Dene to demand of their own leaders
16 that they explain "what land claims is".

17 The people who ask such advise
18 are not unable to define their own position but are
19 unable to understand and own someone else's definition.
20 What could be more natural? This is, in a nutshell,
21 the essence of colonialism; a relationship which leaves
22 one side dependent on the other to define the world.
23 An unscrupulous leadership could exploit the situation
24 if it were prepared to accept the colonial definition
25 of the problem. This could be the outcome of course
26 if the Federal Government remains unyielding in its
27 demands that the Dene present a "land claims position"
28 on its terms and refuses to consider seriously what the
29 Dene are really saying.

30 Finally, an example from the

Puxley & Watkins
In Chief

1 area of education. Another good example of colonial
2 alienation is that of education. This term was once
3 meant to describe a process of development in which
4 man was the starting point, the controlling factor and
5 in which critical thought and change were of the
6 essence. Today, no one can deny that "education" as a
7 term, now describes something the qualities of which
8 are more the nature of a good, a commodity, an institu-
9 tion with a life and an imperative of its own. It has
10 come to condition man, to govern him and to deny the
11 very human process of deconditioning which gave it
12 birth.

13 Education, once integral to
14 life now exists outside life and against it. This is
15 a problem for all Canadians, though the Dene experience
16 all the more obviously as a nation whose colonial
17 relationship to the dominant society results in the
18 alienated assumption that there are no Dene qualified
19 to undertake the task of their own education. On this
20 assumption, the educational system of the Northwest
21 Territories blandly continues to serve but one purpose;
22 the maintenance of a colonial and dehumanizing experience
23 for the Dene and a future in which colonial service is
24 the highest aspiration and accomplishment. Given the
25 colonized condition of the Dene nation, the only
26 relevant education in that context is one which poses
27 the problem of decolonization as the focal point of
28 learning. Of such a situation, Freire has this to say,
29 "The starting point for organizing the program
30 content of education or political action must be the

Puxley & Watkins
In Chief

1 present existential concrete situation, reflecting
2 the aspirations of the people. Utilizing
3 certain basic contradictions, we must pose this
4 existential, concrete, present situation to the
5 people as a problem which challenges them and
6 requires a response -- not just at the intellectual
7 level, but at the level of action."

8 It is not much of an
9 exaggeration to say that those who at present are no-
10 minally charged with the responsibility for Dene
11 education are totally incapable of carrying out the
12 task as we have defined it since they have not even
13 addressed the problem of colonialism in their own
14 lives. Their concept of education amounts to what
15 Freire terms "domestication".

16 As Fromm so ably puts it:
17 "Unless a person is able to transcend his society,
18 and see how it furthers or hinders the development
19 of human potentialities, he cannot be in touch
20 with his own humanity. Socially conditioned
21 taboos and restrictions must appear as natural
22 to him and human nature must appear in a distorted
23 form, as long as he does not recognize the dis-
24 tortion of human nature by the society he happens
25 to live in."

26 No one could better describe
27 the plight of the man who calls himself an educator
28 while serving the cause of colonialism.

29 The implications of a compul-
30 sory educational system which takes for granted the

Puxley & Watkins
In Chief

1 continuation of colonial relations are many and
2 frightening. The fact that Dene languages are dying in
3 such a pre-determined environment is one. The right to
4 speak your own language becomes doubly important where
5 the colonial relationship exists between nations.
6 Beyond this, what can we say of the blind application
7 of such standards of development as "years of formal
8 schooling?" What do these really measure in a colonial
9 context? Again, an authentic Dene educational process
10 would clearly pose the repatriation of education as a
11 primary problem for consideration. This cannot be
12 done under the authority of a colonial administration.

13 In conclusion, what I have
14 sought to show in this paper is that colonial assump-
15 tions do not simply characterize the relationship
16 between something called "Canadian Society" and the
17 Dene Nation, but in fact pervade our society as a whole.
18 Most of us have all been conditioned by a series of
19 colonial relationships from the time we were born. I
20 have attempted to draw attention to the dehumanizing
21 assumptions inherent in this conditioning by comparing
22 them against a humanist conception of the nature and
23 purpose of man.

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Puxley & Watkins
In Chief

1 I have suggested that unless
2 we become aware of our own conditioning we will fail
3 to perceive the pipeline and Dene rights issues in a
4 fruitful way. The Dene cannot afford to take colonial-
5 ism for granted, nor can we. To do so will be to
6 add impetus to an ideological and institutional
7 machine which oppresses and dehumanizes us all.

8 Colonialism creates problems
9 which, if approached in a fashion which will not
10 threaten the continuation of the colonial relationship
11 between exploiter and exploited, are dealt with by
12 colonial solutions. The buildup of parasitic
13 colonial bureaucracies, whose existence is premised
14 on the continuation of colonialism, simply postpones
15 the day when the process of human development can
16 reinstate itself -- all the while submerging more and
17 more people in a colonial experience which robs them
18 of their humanity.

19 I have merely scratched the
20 surface of a very large field. Needless to say, I
21 believe the solutions to environmental concerns and the
22 danger of resource scarcity can also be found by first
23 recognizing the true nature of man and by humanizing
24 the relationship between men. From my experience and
25 from my reading of the literature, I do not see this as
26 a mere subjective conclusion but one which is scienti-
27 fically sound and borne out in every situation where
28 men have the opportunity to develop.

29 The connection between the
30 Dene struggle and the problem of development which

Puxley & Watkins
In Chief

1 confronts it all is obvious when we see our development
2 as a problem of overcoming the false consciousness of
3 alienation. The alienated state is characterized by an
4 acceptance of situations where what is merely man-made,
5 whether it be a machine or an idea, word or institution,
6 acquires a power of its own which is exercised against
7 man and whose authority he accepts. The implication
8 of such a situation is that men have lost sight of their
9 power to create and change their world, and that
10 exercising this uniquely human trait is the source of
11 their development. Failure to exercise this potentiality
12 is to accept dehumanization and to be alienated.

13 Therefore it must be understood
14 that the kind of land settlement the Dene are talking
15 about not only involves structural recognition of the
16 political right to decide what takes place on Dene
17 land, but also involves a process of decolonization,
18 which has already begun but which is the more arduous
19 and difficult to institute the longer the Dene exper-
20 ience colonialism, and the larger the colonialist
21 establishment becomes. In both these senses, therefore,
22 the construction of the proposed pipeline, which it
23 has been argued before and I will argue again here, is
24 a prime example of colonialism, before recognition of
25 the rights of the Dene will certainly prejudice both
26 the political rights they demand and the process of
27 decolonization which is the only process which merits
28 the term "development".

29 Perhaps most important of
30 all, the value of examining the nature of the colonial

Puxley & Watkins
In Chief

1 relationship is evident from the light it sheds on the
2 Dene rights or, as some call it, "the land claims issue".
3 Unless both the colonized and the colonialist take the
4 time to examine how each of their views are conditioned
5 by the colonial relationship they will continue to
6 carry on what one person has called "un dialogue de
7 sourds" -- a dialogue of the deaf. This is so because
8 it is inherent in colonial relations that one side
9 does the talking while the other is, to all intents and
10 purposes, presumed to be mute.

11 That's all.

12 THE COMMISSIONER: Thank you, Mr.
13 Puxley. I think -- what time is it? Do you want to
14 adjourn for coffee now and then should we hear from
15 Mr. Watkins before lunch, or would you -- do you think
16 we should do that after lunch, Mr. Bell?

17 MR. BELL: I think we could
18 adjourn for lunch now and hear from Mr. Watkins after
19 lunch. That would be most convenient.

20 THE COMMISSIONER: All right.
21 Well, let's reconvene at two o'clock then to hear from
22 Mr. Watkins.

23 (QUALIFICATIONS & EVIDENCE OF P. PUXLEY MARKED
24 EXHIBIT 627)

25 (QUALIFICATIONS & EVIDENCE OF M. WATKINS MARKED
26 EXHIBIT 628)

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28 (PROCEEDINGS ADJOURNED TO 2 P.M.)
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Puxley & Watkins
In Chief

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: We'll come to order.

MR. BELL: I think we're ready to proceed with Mr. Watkins' evidence, sir.

WITNESS WATKINS: Mr. Puxley in his evidence explains the meaning of "development". My evidence is concerned with the meaning of "under-development" and how it might be transformed into development.

The applicants, Arctic Gas and Foothills, assert in effect that the proposed gas pipeline provides a new opportunity for northern native people. The form that opportunity is said to take is the increased potential for wage employment. They point to the extent of present unemployment among native people as evidence of the need for this opportunity, though they presumably overestimate this to the same extent as they under-estimate the number of active hunters, fishers and trappers. In any event, they have some difficulty squaring this latter assertion with the extent of prior job-creating projects, notably in mining, but resolve the matter by insisting that the pipeline will constitute a break with the past. They emphasize that the jobs created in the operations phase, but not of course in the construction phase, will be permanent rather than transitory -- though again they beg the question of how this is different from mining, as well as the question of how permanent is permanent. Finally, they appeal to the training

Puxley & Watkins
In Chief

1 program. They are right to do this, since it would
2 appear to be the only novel feature of the pipeline
3 relative to prior projects, though it is certainly a
4 moot point whether such a modest program can reasonably
5 bear the weight of constituting a break with the past.

6 Beyond such specifics, the
7 applicants further assert that to the extent that there
8 are problems or costs, they or the government will mini-
9 mize them or otherwise deal with them. What is being
10 asserted then is good intentions on the part of corpora-
11 tions and the government.

12 Next the applicants assert
13 their respect for native land claims, and urge both
14 the native organizations and the government to settle
15 them so that their projects can proceed. They appear
16 to assert that a pipeline prior to a land settlement
17 will not prejudice the claim, though they simultaneously
18 pretend not to know what the claim is really about in
19 the absence of specific details. They refuse to
20 accept the Dene position that a pipeline can under no
21 circumstances be started prior to a land settlement.
22 They do not appear to have responded to the assertion
23 that the Dene land claim is centrally about the politi-
24 cal and human right to alternative development.

25 Finally, the applicants assert
26 that notwithstanding the rights of northern native
27 people, their first obligation is to serve the public
28 interest or national interest, as defined either by
29 themselves or by the Government of Canada.

30 If we are to evaluate these

Puxley & Watkins
In Chief

1 assertions and consider the probable impact of a pipe-
2 line, we need to know something about:

- 3 1. The nature of past development and the present
4 condition of native people;
- 5 2. The nature of the contemporary corporation and the
6 state and their actual track record (by way of evaluat-
7 ing the credibility of statements of good intentions);
- 8 3. The nature and extent of the land claim, or the
9 nature of alternative development, both for their
10 own sake and for the purpose of assessing prejudice
11 to the claim (with it being borne in mind that my ob-
12 servations on the possible nature of alternative devel-
13 opment are necessarily speculative since only the Dene
14 can decide what kind of land settlement is acceptable
15 to them and what kind of society they wish;
- 16 4. The nature and extent of the public interest
17 relative to the native interest.

18 At the same time we can speak
19 to the positive assertions of the Dene, that they own
20 450,000 square miles of land, that their title to the
21 land should be recognized rather than extinguished,
22 that their aboriginal and human rights transcend
23 property rights to include political rights, namely
24 the right to self-determination as a nation; that their
25 desire for economic independence can be met by creat-
26 ing alternative community-based economic development
27 under their control, that further development and
28 particularly the proposed pipeline threatens gravely to
29 prejudice the land claim by eroding their aboriginal
30 and human rights.

Puxley & Watkins
In Chief

1 My evidence is now organized
2 around the four points that I mentioned, the first being
3 the nature of past and present development. The first
4 notion of which we should disabuse ourselves is that
5 what the applicants have in mind for the north is novel
6 from any historical perspective. Quite the contrary.
7 The history of Canada, as written by the greatest of
8 our historians, is as a succession of staple exports
9 from successive geographic frontiers to serve the
10 needs of more advanced industrial areas. The great
11 export commodities have been fish, fur, square timber,
12 lumber, wheat, pulp and paper, minerals, oil and gas.
13 The consequences for Canada have been profound, and I
14 would like to read just two very short quotations from
15 the writings of Harold Innis:

16 "Energy has been directed toward the exploit-
17 ation of staple products and the tendency has
18 been cumulative ... Energy in the colony was
19 drawn into the production of the staple commodity
20 both directly and indirectly. Population was
21 involved directly in the production of the
22 staple and indirectly in the production of
23 facilities promoting production. Agriculture,
24 industry, transportation, trade, finance, and
25 governmental activities tend to become sub-
26 ordinate to the production of the staple for a
27 more highly specialized manufacturing community."
28 End of the first quote. And again quote:

29 "Concentration on the production of staples
30 for export to more highly industrialized areas

Puxley & Watkins
In Chief

1 in Europe and later in the United States
2 has broad implications for the Canadian
3 economic, political and social structure.
4 Each staple in its turn left its stamp,
5 and the shift to new staples invariably
6 produced periods of crises in which ad-
7 justments in the old structure were pain-
8 fully made and a new pattern created in
9 relation to a new staple."

Puxley, Watkins
In Chief

1 The methodology of this
2 so-called "staples approach" is directly helpful to
3 us in considering the matter of impact which is
4 centrally before this Inquiry. The impact of the
5 proposed pipeline is simply the stamp of the oil and
6 gas industry on Canada in general and the North in
7 particular. The North is experiencing the shift to
8 a new staple, the result is a period of crisis and of
9 painful adjustments.

10 What is the impact of a staple?
11 Firstly, all of the staple trades have in common a
12 a bias towards serving the needs of more advanced
13 metropolitan areas, once France, then Britain, and
14 now the United States. This is clearly relevant when
15 we are told, as in the present case, that the Dene
16 interests must yield to the higher national interest.
17 Not only is the hinterland interest being made sub-
18 servient to the national interest, but by some slight
19 of hand, the national interest is equated with the
20 metropolitan interest.

21 Secondly, each staple leaves
22 its particular stamp. Two great staple trades have
23 dominated the North, the fur trade and now increasingly
24 minerals, and by minerals I mean both mining and
25 petroleum, the economic characteristics of which are
26 the same. That is the highly capital-intensive
27 exploitation of non-renewable resources. These two
28 staples have had profoundly different economic impacts on
29 native people.

30 But first we need to retreat

Puxley, Watkins_
In Chief

1 for a moment and see how the aboriginal people fit
2 in the most fundamental sense, into this approach to
3 the story of Canadian development, past and present.
4 Again Innis makes the essential point, at least implicitly,
5 when he writes,

6 "Fundamentally the civilization of North America
7 is the civilization of Europe",
8 and again,

9 "Canada has remained fundamentally a product
10 of Europe."

11 The Indian way of life, indeed
12 the Indian himself, has been swept aside. Only in
13 the era of the fur trade was the Indian functional to
14 the Euro-Canadian and everywhere the fur trade retreated
15 in the face of settlement and was ultimately obliterated
16 by it. The fate of the Indian was simply to become
17 irrelevant. It is that fate, which was visited upon
18 the Indian as a whiteman's frontier moved inexorably
19 west and north, that now faces the Dene. Today native
20 people are the majority in the N.W.T. but, of course,
21 that has always been true initially in each of the
22 successive frontiers.

23 The most dramatic demonstration
24 of this functional irrelevance of the Indian is to be
25 found in the very terminology that historians used
26 to characterize Canada and other like cases, such as
27 the United States, Australia and New Zealand. Their
28 aboriginal populations notwithstanding, they are
29 called empty lands or areas of recent settlement or
30 new countries or undeveloped areas or simply the

Puxley, Watkins
In Chief

1 frontier. Their histories can be written and are
2 written as a story of successive waves of white settlers
3 exploiting new frontiers and transplanting European
4 institutions. The resistance of the Indian for their
5 hesitant resistance at every step becomes, in the
6 history books, little more than a lengthy footnote to
7 the main story. The Riel uprising is crushed, Riel
8 is hanged and he cast his long shadow over subsequent
9 history, as Professor Page reminded us, not because
10 he was a native resistance leader, but because he was
11 a Catholic.

12 There is then an awful truth
13 about the manner in which this country was born, and
14 has since been successively rejuvenated. We cannot
15 change that history, but we can learn from it and
16 resolve never again. Put differently the exigencies of
17 staple production must make allowance, here in the
18 North, for the first time, for the reality of native
19 rights; unless that is done, nothing will really
20 change.

21 Let us now look briefly at
22 the specific and different impacts of fur and minerals
23 as staples. To begin, there is the theoretical question
24 of the mechanisms by which a particular staple
25 leaves its stamp. It is clear from the quotations
26 from Innis that these are pervasive, but at least with
27 respect to the specifically economic mechanisms, which
28 as it happens are central, they can be broken down
29 by focusing on the actual mode of staple production
30 and the linkages to other sectors of the economy.

Puxley, Watkins
In Chief

The mode of production can be understood for present purposes as the particular mix of factors of production. Of land or natural resources, of labour and of capital, used to produce the staple within, at any moment of time, a given technological and institutional framework. The linkages are the spread effects from the staple sector to other sectors of the economy and particularly the local economy, through the market mechanism. They can be conveniently classified as three-fold. Forward linkage, that is, further processing of the staple, backward linkage, that is, the production of input, including capital goods for use in production of the staple, and final demand linkage, that is, the spending of the income received by the commodity producers or workers on consumer goods. In each case the stronger the linkages, the greater the income generated in the local economy or in the language of the economist, the higher the multiplier.

The prosecution of the fur trade depended, at least initially, in each region into which the trade expanded, on the Indian as fur gatherer. As such, the Indian was a commodity producer, not a wage earner and the fur trade was literally a trade or a commercial activity, not an industrial activity.

The Indian became dependent to the extent that he became vulnerable to the exigencies of the trade, but he did not have to make too critical and traumatic adjustments that result from imposed

Puxley, Watkins
In Chief

1 industrialization. Firstly, he did not have to
2 become a wage earner and secondly, which is really
3 the opposite side of the coin, he did not have to
4 yield up his ownership of the land.

5 To put the matter differently,
6 neither his labour time nor his land had to become
7 themselves, marketable commodities.
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Puxley & Watkins
In Chief

1 This point is of the first
2 importance. For the student of economic history in
3 general, no theme is so compelling as the process by
4 which land-bound man -- typically agrarian but some-
5 times nomadic -- is turned against his will, into
6 industrial man. In geeneral, it has not been a voluntary
7 process, the mere offering of another option, as the
8 applicants like to phrase it. Rather, the tendency has
9 been for people to be pushed off the land or to have
10 others sell it from beneath their feet. To turn land-
11 bound people into landless wage-earners has typically
12 involved coercion.

13 (One reaction to the initial
14 trauma of the imposed wage economy -- and it is one
15 of which the applicants are not guiltless -- is to con-
16 clude that if some wage employment leaves many problems
17 in its wake, the solution is to accelerate change so as
18 to get more wage employment. This might be called the
19 "shock-treatment" approach to development. It fits into
20 a general class of behavior which E. F. Schumacher calls
21 the tendency:

22 "...to try and cure a disease by intensifying its
23 causes.")

24 Now mineral production (includ-
25 ing petroleum) is an industry, not a trade and it needs
26 both rights to the use of land and people who will work
27 for a wage. The Hudson's Bay Company, as a fur-trading
28 company, did not need to own the land; indeed, it was
29 in its interest to let the Indians own the land, the
30 better to trap on it and to discourage white settlement.

Puxley & Watkins
In Chief

1 Only when settlement overrode the fur trade, or promised
2 imminently to do so as it did in the west, did the
3 Bay Company see fit to transform itself into a real-
4 estate company and to pretend, successfully as it
5 turned out, that it owned Indian land and was entitled
6 to compensation rather than the Indians.

7 But for the mining and petro-
8 leum companies, no such ambiguity is tolerable. Owner-
9 ship arrangements with respect to the land must be
10 such that they have a clear right to take minerals
11 from under the land and transport minerals over the land.
12 Hence, in the context of the present situation, they act
13 on the assumption that the land is not Dene land, but
14 Crown land and if that is not so now, it should be
15 made so by a land settlement that extinguishes aboriginal
16 title; the land, then, either is or must become Crown
17 land, and the companies know full well the propensity of
18 the Crown to let them extract resources.

19 Furthermore, since "land" is
20 simply a commodity, should the Dene perchance own some
21 land that is needed -- either because title has not
22 been resolved or because property rights have been
23 vested with the Dene as part of a land settlement --
24 the companies reply that they can buy it and should the
25 Dene be unwilling to sell, the companies say that they
26 can, with the help of the Crown, expropriate it.

27 This helps us to understand
28 what a land settlement must necessarily mean to the
29 industry, namely, extinguishing native title to the
30 land or as a minimum, limiting any recognition of

Puxley & Watkins
In Chief

1 aboriginal rights to property rights subject to
2 expropriation, so as to remove an impediment to
3 industrial activity.

4 The industry needs labor as
5 well, but here we do not need to be cynical to see
6 that Dene labor is hardly so essential as Dene land.
7 Non-native labor is generally readily available from
8 the south -- and this is particularly so now given the
9 extent of unemployment -- and has the advantage that
10 it is not "raw" labor but trained and disciplined
11 labor. The record of the mining industry, or of the
12 Imperial Oil refinery at Norman Wells, in this regard,
13 namely their failure over long periods of time to
14 employ native labor and then mostly in the most menial
15 and casual occupations, is sufficient demonstration of
16 how the economics of the matter works. True, the
17 government now insists on the employment of native labor
18 and industry is generally compliant -- in part because
19 much of the training costs are paid by the government,
20 but the motives involved are at best mixed. It is
21 good public relations for both government and industry,
22 and in general has more to do with politics than with
23 economics. There are incidental advantages. To
24 the extent it works, it means less native use of the
25 land, relative to what would otherwise be the case, and
26 hence can be alleged to diminish the potency of a land
27 claim based on land use (though not of course, the
28 possessory rights that flow from land occupancy since
29 time immemorial). For the government, the whole scheme
30 can to some extent be seen as a substitute for welfare.
When all is said and done, what is involved for the

Puxley & Watkins
In Chief

1 Indian is a swap -- a job in the wage economy for
2 abandoning and yielding up the land. We need to have
3 only the slightest knowledge of the value of the
4 natural resources of the north to the companies, to know
5 what an unequal bargain that is for the Dene.

6 We can get some idea of that
7 value by enquiring about the role of capital and the
8 nature of its return and a closely related matter,
9 namely, who gets the return to "land", or what economists
10 call "economic rent". Up to a point, the matter is
11 straightforward. Under the market system, the providers
12 of capital receive dividends and interest. All we
13 need add is that the owners of this capital may reside
14 outside the region --as they clearly do in the cases
15 of both the fur trade and mineral production in the
16 north -- and in that case, ^{no} benefit therefrom accrues to
17 the residents of the region.

18 But what if staple production
19 yields profits above and beyond those necessary to service
20 capital? This is not a hypothetical matter, but is
21 rather to be expected in the nature of the case. The
22 main reason is that staple production necessarily
23 means exploitation of natural resources or of land
24 and since the latter is scarce, it is likely to command
25 its own reward. The critical question then becomes
26 "who gets the reward?" or "Who appropriates the rents?"
27 Logic suggests that the answer is "The owner of the
28 land". If, as is alleged here in the north that the
29 Crown owns the land, then it should get the rents
30 and that is a rationale for royalties and other forms

Puxley & Watkins
In Chief

1 of taxation of the resource industries. If the Crown
2 fails to appropriate the rents as it largely does in the
3 north, and as it apparently intends to continue doing
4 in the future, they are transformed into super-profits
5 and are appropriated by the owners of the capital or
6 in effect, the corporation itself for purposes of
7 re-investment.

In Chief

There is, however, no reason to expect that they will be re-invested within the staple-producing region which generated them, and every reason to expect that they will not be re-invested in the region in other activities that serve local priorities. What tends to happen, then, is that the return to capital and to land leaves the region; all that remains is the return to labor and that only to the extent it is resident labor.

To cast the Dene simply as wage-earners, as the applicants do, is then not only to cast them in a role they may not want, but to deny them their role as the land-owner who should be entitled to appropriate the rents from projects which they choose to let proceed on their land. That denial is critical, for it means that the once and for all rents generated within the region, from non-renewable resources that are in due course depleted, are ultimately re-invested at the behest of the corporation outside the region, rather than being re-invested within the region by the people themselves in activities based on renewable resources that could survive after the non-renewable resources are exhausted.

The general point has been
powerfully made by Eric Kierans in his,

"Report on Natural Resources Policy in Manitoba," and I won't read this set of lengthy quotes except the final statement where he's referring to the Province of Manitoba, but the point is general for any region.

"A province should use the value of its

Puxley & Watkins
In Chief

1 exhaustible resources to finance the sectors
2 of its economy that promise continuing economic
3 activity, employment and development in the
4 future."

5 Now in this respect -- to
6 go back to the main text -- the oil industry is admit-
7 tedly no different from the fur trade. The Hudson's
8 Bay Company appropriated such enormous surpluses from
9 the fur trade that it is now a major retailer, real
10 estate developer, and shareholder in the oil and gas
11 industry. Indeed, beyond that, the fortunes that
12 originated in the fur trade went on to spawn yet
13 greater fortunes in banking and railways. Of what
14 benefit has this been to the northern natives who
15 produced the fur?

16 When the resource is non-
17 renewable, as it is for mining and oil and gas,
18 the major legacy of failing to keep the surpluses in
19 the region to seed other activities is the well-known
20 Canadian phenomenon of the ghost town. As Northrop
21 Frye observed in his recent "Images of Canada" tele-
22 vision special on the C.B.C.:

23 "Canada is full of ghost towns, visible
24 ruins unparalleled in Europe."

25 The ghost town symbolizes everything that the native
26 people as the long-term residents of the region, have
27 to fear from the present mode of staple production,
28 for by then who knows what cumulative damage will have
29 been done to their land and its ability to support
30 them?

Puxley & Watkins
In Chief

There is also, as noted above, the matter of linkages of the staple sector to other sectors of the local economy. None of these linkages operate so as to create much economic activity in the north beyond the primary sector itself, and there is little reason to expect this to change. The primary product tends to be exported in a relatively unprocessed form, and there is a high propensity to import both capital goods and consumer goods. Rather, the linkages tend to generate economic activity in Southern Canada, the United States and elsewhere, thereby creating benefits outside the north. If I might just digress from the main point for a moment, that latter statement does not mean that there is necessarily a net benefit to Southern Canadians. Whether or not there is depends as well on the effects of frontier development on primary product prices, and hence indirectly on the prices of other commodities embodying the primary product. If the price of the staple rises to make frontier production possible, this will lower the real incomes of those who, directly or indirectly, consume the staple. This phenomenon is clearly relevant with respect to high cost northern oil and gas (if they are ever found) and very probably makes the net benefit to the great majority of Southern Canadians negative.

To return to the main point, predictably the tactic of the business men and government of the staple-exporting region is to attempt to increase the linkages within the region. Whatever crumbs they achieve by this strategy are, of course, necessarily

Puxley & Watkins
In Chief

1 obtained by their having to opt wholeheartedly for
2 continuing staple production. Hence it is no surprise
3 that local business interests in the north are solidly
4 behind the pipeline, and that the Territorial Govern-
5 ment conceives of Indian economic development as helping
6 the Dene to get a piece of the action that will be
7 generated in other sectors by the pipeline -- in spite
8 of the fact that the latter has about it something of
9 the aura of asking the condemned man to take up
10 rope manufacturing.

11 Nor can it be assumed that an
12 existing local enterprise will necessarily reap any
13 benefit at all from a resource boom; it may even be
14 left worse off. In his testimony before this Inquiry
15 at the community hearing in Fort Resolution, Father
16 Menez gave no less than four examples for that
17 community alone -- in the fur business, river transpor-
18 tation, sawmilling, and commercial fishing -- where
19 existing native involvement was pushed aside by subs-
20 equent rounds of activity. Some of those awaiting the
21 pipeline will experience not a linkage effect but a
22 boomerang effect.

23 It was noted at the beginning
24 of this analytical discourse that staple production
25 takes place within a framework of technology and in-
26 stitutions. These are not ordained from on high but
27 are man-made; nevertheless, for the staple-producing
28 region they are largely imposed, being created and con-
29 trolled by outside interests. This is very clear today
30 in the mineral sector of the north, where the

Puxley & Watkins
In Chief

1 technology is highly capital-intensive and a small
2 number of large companies are dominant. Insofar as the
3 technology is difficult to alter, the message for local
4 people, and above all for the Dene as the permanent
5 residents, is again not to be satisfied with merely
6 being wage-earners in the mineral sector, but rather
7 the focus on the rents which otherwise accrue to
8 capital and are drained away. Insofar as the corpora-
9 tions, as the dominant institutions, are difficult to
10 alter, and insofar as the government is an alien
11 institution subservient to corporate needs, the relevant
12 message for the Dene is to create a new institutional
13 framework within the north under the control of the
14 Dene to which these entities must adapt.

15 Large-scale resource projects
16 are said by their proponents to create development.
17 In fact, for native people what has resulted is properly
18 characterized as under-development. The process of
19 under-development permits of a reasonably precise
20 definition, namely, the suppression or blockage of
21 potential sustained economic development geared to
22 local human needs. The primary mechanism by which
23 local development is suppressed is by the outward
24 draining of economic surplus from the region. The
25 most significant loss from the failure to retain
26 surplus is the destruction of local self-determination.
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Puxley & Watkins
In Chief

1 Let no one doubt that the
2 outflow of income generated in the north is large.
3 This is evident from an examination of the social
4 accounts of the north which has been done by John
5 Palmer of Indian and Northern Affairs for the period
6 1967 o 1970 and it's the only data we have on this
7 question. In 1970, Gross National Product per capita
8 for all of Canada was \$3,866 while Gross Domestic
9 Product for the N.W.T. which is conceptually virtually
10 the same as Canadian GNP was much higher at \$5,311.
11 Now, the high figure for the north is because GDP
12 includes all income originating in the north, and hence
13 includes non-resident earnings of both individuals
14 and corporations, but that only demonstrates the extent
15 to which wealth is in fact created in the north but
16 drained out as wages and salaries to southerners and
17 cash flow from northern businesses to southern interests.

18 THE COMMISSIONER: Excuse
19 me, Mr. Watkins. I recall Dr. Jamieson in the over-
20 view discussing Palmer's figures. You say that that
21 average of \$5,311 would include the earnings of Cominco
22 at Pine Point?

23 A Yes.

24 Q That's what you called
25 non-resident corporate earnings?

26 A Yes. The usual net and
27 the measure of -- if you look at Canada as a whole and
28 you want to measure Canadian national income, you'd
29 include all income generated in Canada without respect
30 to its ultimate destination. It may eventually flow to

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In Chief

1 foreign shareholders. If you look at it for a region,
2 you must therefore do the same thing and just as
3 Comico's earnings at Pine Point are part of Canadian
4 GNP, they must also be counted as the north's GDP. The
5 word "domestic" is used because you can't apply the
6 word "national" to a region, so it really means regional.

7 Q You have said that the
8 proposal to build a pipeline was essentially the working
9 out of Innis's staples theory of Canadian history in
10 the north. Now Innis's theory is, in a sense, a way
11 of organizing Canadian history. You refer to him as
12 our "greatest historian". Is that a view widely held,
13 or is it the consensus or is it a view held only by
14 yourself, and what about his theory? Is that one that
15 historians generally say ought to be applied in
16 examining Canadian history?

17 A Well, there's more than
18 one question involved and more than one answer then.
19 On the question of, is he thought to be the greatest
20 historian Canada's produced, I think there's an
21 overwhelming consensus on that question. But, as you
22 might expect, a lot of people say that and disregard
23 everything he wrote or misinterpret everything he wrote.
24 But, you would not get the same consensus on the view
25 that you can apply his view, but I would say it would be
26 a very substantial opinion within the profession that
27 this -- and there are still -- there are continuing
28 debates in the literature about the relevance of this
29 way of looking at history and the fact that the debate
30 takes place is the best evidence that it is still a

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In Chief

1 vital question. It's a question that refuses to go
2 away. Each year, yet new articles appear debating the
3 question of whether this is a relevant way to look at
4 it. There are then two sides, but to me the essential
5 point is that the debate remains a lively debate.

6 Q Well, is he -- he sought
7 to interpret the events of Canadian history in terms
8 of the development of the Canadian economy as opposed
9 to simply a recitation of 1791, 1841, 1867 and so on.
10 Were there, before Innis, any Canadian historians who
11 sought to interpret Canadian history according to the
12 economic development of our country?

13 A Well, I guess there were,
14 but not of continuing importance. If you go back to
15 the 1920's when Innis and another man, MacIntosh at
16 Queens first developed this way of looking at Canadian
17 history, it's clear that what they were trying to break
18 with was an essentially a constitutional interpretation
19 of history along the lines of 1791, 1841, 1867 and so
20 on.

21 That kind of narrowly political
22 interpretation of history refuses to die. There are
23 powerful vested interests behind this. But clearly,
24 Innis and MacIntosh made it -- pulled together something
25 that was previously a minor theme and made it into a
26 major theme and they really created economic history
27 as a discipline in Canada.

28 Q Sorry, I've forgotten
29 where you were.

30 A I think I was just making

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In Chief

1 point that there are -- we have to count all income
2 that originates in the north to get a proper measure
3 while recognizing that the very large amounts do not
4 benefit the north because they are drained out as wages
5 and salaries to southerners. It's something that
6 Palmer calls "cash flow" from northern businesses to
7 southern interests.

8 Now, again using Palmer's
9 data we can't make a split in every case between the
10 Yukon Territory and the Northwest Territories, but in
11 1970 if we look at the Gross Domestic Product for both
12 territories, which was \$266.1 million, we find that
13 \$80.4 million was not retained in the north; \$32.2
14 million going out as wages and salaries and \$48.2
15 million as business cash flow.

16 Q Excuse me, what is that
17 "cash flow" from northern businesses to southern
18 interests? What does that represent?

19 A Well, it would chiefly,
20 if you took a case like the Pine Point mine which is
21 the separately incorporated company, it would show up
22 chiefly I presume in dividends.

23 Q Oh, I see.

24 A -- paid to the parent.
25 But it could also show up as management fees or it
26 could show up as various kinds of transfer payments.

Puxley, Watkins
In Chief

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Q I understand.

A Now again, in using Palmer's data, or Palmer himself using his data, enables us to -- gives us other comparisons for the single year, 1969. You can calculate something called per capita personal income, which is the income actually received by person, which excludes that retained by corporations and for all of Canada, that was \$2,915.00. It was approximately \$1,100.00 for Treaty Indians in Inuit of the N.W.T. and approximately \$3,000.00 for other residents of the N.W.T. That is the figure for non-native residents of the N.W.T. and Canada in general are just about the same.

Total native personal income, with native defined by those who collect the data, rather than by myself, as Treaty Indians and Inuit, that is excluding non-status and Metis; total native personal income is estimated as twenty and a half million dollars in 1969. Now, this is clearly too low, a point which Palmer himself concedes, because of an underestimate of the value of country food. But it's still interesting to contrast that figure with other figures on the return to capital because in that same year, the gross return on capital, that is gross before tax in the mining sector in the N.W.T. was 37.4 million, of which only 4.6 million dollars was retained in the North. That is, even if the 20.5 million figure is low, both because it excludes Metis and because of an undervaluation of country food, it's doubtful that it could be any higher, and this is quite

Puxley, Watkins
In Chief

1 incredible that the majority of people in the N.W.T.
2 actually receive less income in 1969 than the return
3 to capital in the mining sector. It shows you the
4 size of these returns that we're talking about, and
5 Arvin Jellis, who will be leading evidence here shortly
6 has made rent estimates for the producing mines of
7 the N.W.T., in which he allows for a fifteen percent
8 return on capital after all taxes and royalties, and
9 that figure in 1970, which is the first year that
10 Jelliss calculated for, is 15.9 million and very much
11 higher in 1973 and 1974.

12 Well, the point of this is
13 to argue that for years such as 1973 and 1974, the
14 super-profits alone, of the mining industry, were
15 almost certainly in excess of all native income in the
16 Northwest Territories. So, when we talk about the
17 surpluses in rents, we are indeed talking about very
18 large sums.

19 Q Excuse me, you are saying
20 that if you say to the mining industry, you are
21 entitled to the fifteen percent annual return on
22 capital, and then you -- of course they've already
23 paid royalties, that's a cost to them, and you take
24 away their taxes, then you say that the economic rent,
25 that is the balance, was 15.9 million. Am I losing
26 the thread of this or --

27 A No, sorry. For that
28 particular year you'd be contrasting the 15.9 with
29 the 20.5 or even that's not the same year, but '69
30 and '70 couldn't have been that different. But as

Puxley, Watkins
In Chief

1 we will see, when we get Mr. Jelliss' evidence, these
2 rents were very much higher than 16 million dollars
3 in 1973 and 1974, particularly because of the tremendous
4 profitability of the Pine Point Mine, because of high
5 base metal prices, but --

6 Q Excuse me, I'm -- the
7 point you made earlier in that same paragraph was
8 that the 20.5 million for that was perhaps a conserva-
9 tive estimate of native income for 1969 because it
10 didn't include Metis income and it didn't include
11 a component for -- representing the value of country
12 food, but you say --

13 A Well, it includes an
14 estimate of country food, but not at a proper value.

15 Q Then you say that even
16 if you had compensated for those two items you would
17 be unlikely to reach 37.4 million, which was the gross
18 return on capital before taxes in the mining sector
19 that year. Now, that means gross profits, that's
20 profit before taxes.

21 A That's right, that's
22 right, gross before taxes, yes.

23 Q Now, the 15.9 million
24 for 1970, I'm -- that's where I've lost you. What
25 does that figure --

26 A That is that you take
27 the total profit figure and then you allow the companies
28 to earn a 15 -- the companies would then say yes, but
29 we're entitled to a return on our capital invested.
30

Puxley, Watkins
In Chief

1 Q Yes.

2 A So you say, okay, fine.
3 What's a reasonable return? Well, 15 percent is above
4 the average, let's give you 15 percent, after all
5 royalties and after all taxes and the rest we'll say
6 is excess profits or super-profits or economic rent.

7 Now, that excess was 15.9
8 million in 1970. If you look at Jelliss' calculations,
9 for 1973 and 1974, I don't have the exact figures with
10 me, but they are very much higher, such that, if my
11 memory serves me right, in '73 and '74, the economic
12 rents alone, after allowing for this fair return to
13 capital probably were of the same order of magnitude
14 as all native income, or perhaps even larger than all
15 native income.

16 Q For '73 and '74?

17 A Yes.

18 Q I see, and do you say
19 that economic rent -- sorry to detain you on this, but
20 if Jelliss is going to discuss it, I'd better under-
21 stand it. Economic rent is what you say the land
22 owner, putting to one side, whether it ought to be the
23 Crown or the Dene, at any rate it is what the land
24 owner should have retained, that is the owner of the
25 resource should have retained?

26 A If you assume, using
27 sort of orthodox, economic analysis that there are two
28 major factors of production, labour and capital, and if
29 you assume that each earns a return set by the market
30 as a wage rate or an interest rate, then whatever's

Puxley, Watkins
In Chief

1 left over, is by default, the return to the owner of
2 the scarce resources.

3 Q Right, okay. On to the
4 next page.

5 A Now, these figures from
6 Palmer show, for what it's worth, that the statement
7 made by Dr. Tom Espie, who was then the Director of
8 Economic Development for the Territorial government,
9 in the overview hearing, that

10 "The most dramatic disparity in Canada today
11 is that separating the people of the Northwest
12 Territories from other Canadians",
13 is simply not true. What the data does show is that
14 the most dramatic disparity in Canada today is that
15 separating native people from other Canadians, and that
16 this shows up in the North as a disparity between
17 natives and whites within the North and not as a
18 disparity between all Northerners and other Canadians.
19 In other words, the basic disparity is ethnic not
20 regional, but I think almost everybody who has eyes
21 to see knows that, but strangely enough, not the then
22 Director of the Department of Economic Development.

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In Chief

The ultimate hallmark of under-development is marginality. Economically, it manifests itself as poverty, unemployment and welfare. Perhaps I should just add a brief comment about welfare, which is that rather than seeing it as charity, we should appreciate its hidden dimensions. For the Dene, it avoids integration into the wage economy, and is therefore a form of resistance. For the dominant society, it is something it can afford, for there are not that many Dene and the long-run effect of welfare, to the extent it demoralizes and degrades people, discourages concerted use of the land and thus helps to dispossess the Dene of their land. Socially marginality manifests itself in alcoholism, family breakdown and suicide. Politically, it manifests itself in feelings of hopelessness and apathy.

The Dene have so far been spared the fullness of that fate; they are, as the applicants like to say, in a state of transition. But the direction of history is clear. It has recently been succinctly summarized by the anthropologist, Dr. Peter Douglas Elias, in his study of Churchill in Manitoba:

"Indian socio-economic phenomena must be studied within the historic and contemporary framework of the development of industrial class-capital of Canada. With the passage of time, Canada tended to acquire the typical characteristics of class capitalist society. The producers, in this case the native people

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In Chief

1 of Canada, were separated from the means of
2 production, embodied essentially in the land
3 and the products of the land. The means of
4 production became concentrated and monopolized
5 in the hands of a single social class, and
6 natives became a class owning no possessions
7 and ultimately having no exchangeable commodity
8 other than labor. Even this typical model of
9 capitalist development was surpassed by natives
10 becoming a permanently under-employed class
11 subsisting on social assistance... An examina-
12 tion of the history of native and white contact
13 reveals the processes that culminated in the
14 total integration of native peoples into
15 contemporary Canadian society as permanent
16 members of the under class."

17 Hugh Brody tells us that
18 the process is at work today with respect to the native
19 people of the Eastern Arctic;

20 "The most recent trends are pushing native
21 people increasingly towards the lowest and
22 least certain rung on the national class
23 ladder; if separated from his own means
24 of production and unable to have a sure
25 relationship to the intruders' means of
26 production, the Eskimo -- like many Canadian
27 and American Indians before him -- will be
28 turned into a migrant worker, a casual
29 laborer, and as this lumpenproletarian
30 condition develops, prostitute, petty thief

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In Chief

and beggar. Abundant signs of this course of events are already visible."

It must be insisted upon that the purpose of northern native land claims is neither more nor less than to subvert this terrible historic process.

It is important to understand as well that this way of analyzing the condition of native people is very different from those who insist explicitly or implicitly, that the reality we are observing, particularly here in the north, is a so-called dual economy. According to this view, --

MR. STEEVES: Excuse me, intermittently I couldn't hear part of what you're saying.

A According to this about the dual economy, view, the north is a two-sector economy, consisting of a modern sector and a traditional sector, and these two sectors are substantially separate. The modern sector is seen as essentially an enclave where development takes place; while the traditional sector is stagnant and full of problems, and is not experiencing these benefits of development. The logic of this position is that the solution lies in moving people out of the traditional sector and into the modern sector. The transition, though painful, is necessary. At the end of the road, or in this case presumably at the end of the pipeline, what will be created is a one-sector modern economy with everybody experiencing the benefits of development.

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In Chief

1 The thrust of my argument
2 is very different. The concept of dual economy is not
3 helpful in analyzing the history of the Mackenzie
4 District either in the era of the fur trade or in
5 the recent and present era of mineral production.
6 In the past when the fur trade was dominant, the
7 economy was a one-sector native economy with trapping
8 commercialized. As Professor Asch has shown, the Dene
9 benefitted, though at the long-run cost of
10 dependency. The moral seems clear: Had the Dene
11 controlled the fur trade rather than the Bay Company,
12 tendencies to mining and consequent depletion could
13 have been curtailed; surpluses could have been kept
14 in the region to permit of more diversified development
15 around renewable resources, rather than being used to
16 build major edifices in Winnipeg and Toronto; and white
17 trappers (who became an increasingly serious problem
18 to the Dene in this century, as Father Fumoleau shows)
19 could have been excluded, assuming the political
20 rights of the native majority were allowed to express
21 themselves.

22 Today the economy is a two-
23 sector economy with the mineral sector added to the
24 pre-existing one-sector economy. But the two sectors
25 are anything but separate. Rather, the operation of
26 the new sector works, through a variety of mechanisms,
27 to under-develop the old sector. The economic surplus
28 generated by the new sector is either used to generate
29 further activity in the new sector, or it is drained
30 out of the region. None even trickles down to the

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In Chief

1 old sector. The white settlers attracted by the new
2 sector impose alien institutions and pre-empt the power
3 of the native people -- as a previous panel has
4 shown; the native people experience degradation and
5 anomie.

6 Again, there would seem to
7 be a clear moral: If non-renewable resource exploitation
8 is to continue, then instead of integrating the Dene
9 into a one-sector economy (which they say they do not
10 want and which does not appear to have worked elsewhere
11 in Canada), what should be considered is creating a
12 two-sector economy which has the real promise of
13 being beneficial to the Dene. That is, instead of
14 blithely assuming that a dual economy exists today --
15 but should be encouraged to wither away in the long
16 run -- we should see that what could be created is a
17 two-sector economy where the two sectors would co-
18 exist harmoniously. That would require us to look
19 carefully at the means by which the present mechanism
20 of under-development could be turned into mechanisms
21 of development.

22 The conclusion of this
23 section of the evidence is that staple production by
24 its inherent nature, brings into play powerful structur-
25 al and determinative factors. The inference is that
26 these structural tendencies can be broken only by
27 new institutional arrangements that permit of genuine
28 development.

29 The second section, and I must
30 say the first section is far longer than the other

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In Chief

1 three, the second section deals with the question of
2 corporate and governmental performance. Realistically,
3 building a pipeline creates problems; to some extent
4 the applicants concede this, though there is an
5 understandable tendency to under-estimate them. But no
6 matter, we are told, they will do their best and the
7 rest can be left to the benevolence of government.

8 The truth of the matter is
9 that the companies will do little beyond what the
10 government requires them to do. The reason is simple:
11 the role of the corporation is to maximize its profits,
12 and it might even get into trouble with its shareholders,
13 particularly when the latter is an externally based
14 parent company, were it not diligently to do so. The
15 companies define their sphere of activity narrowly -- the
16 production, transportation, marketing and financing of
17 goods and services -- and if these activities create
18 costs for others, these are externalities which are
19 not relevant in calculating profit, and hence in making
20 decisions except to the extent that the companies are
21 constrained by government through law and regulation.
22 Put differently, the activities of the corporations
23 generate income, which is a private benefit, but any
24 costs imposed on others are social costs and are left
25 to be borne by the individuals and groups concerned
26 or to be borne on their behalf by the government.

27 The ability of the corporation
28 to single-mindedly pursue its narrow objective is
29 further enhanced by its structure. It is a hierarchical
30 and authoritarian institution. A distinguished student

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In Chief

1 of human liberty, Professor Edgar Friedenberg, puts
2 it this way:

3 "The large corporation has proved itself to
4 be more nearly immune to the democratic
5 process than any other major social institu-
6 tion of our time... All the egalitarian
7 assumptions of the democratic process are
8 openly negated in the structure of the
9 corporation. The negation is built into its
10 structure. Moreover, this fact is accepted as
11 perfectly legitimate."

12 And Friedenberg, who sees the state itself as a sign-
13 ificant threat to liberty, nevertheless concludes:

14 "Granted the choice between being governed by
15 the demands of a corporation and those of
16 a democratic state whose policies are, in any
17 case, largely determined by corporate demands,
18 I would still choose the national state. Corpora-
19 tions are probably too lacking in diversity and
20 moral commitment, too rational to be trusted
21 to encompass the whole of life as the state
22 must."

23 Fundamental to the undemocratic
24 nature of the corporation, particularly in its present
25 multinational form, is its centralization of decision-
26 making. The late Stephen Hymer, a leading authority on
27 the multinational corporation, wrote:

28 "Although the multinational corporation
29 spreads production over the world, it
30 concentrates co-ordination and planning

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1 in key cities and preserves power and
2 income for the privileged."

3 While corporations do not
4 always do what they are told by governments to do,
5 it can be easily demonstrated that they are not in-
6 clined to be better corporate citizens than governments,
7 no matter how reactionary, require them to be. The evi-
8 dence by the churches on the Brazilian Amazon and the
9 Canadian north showed that a significant number of
10 well-known Canadian companies, some of which operate
11 here in the north, operate in Brazil, notwithstanding
12 harsh policies toward aboriginal people bordering on
13 the genocidal, and not to speak of a military junta
14 and widespread depression. In Chile, the use of
15 torture as an instrument of state policy is one of the
16 horrors of the contemporary world, but it has not
17 stopped Falconbridge, Noranda, Amoco and Cominco from
18 pursuing business as usual -- and three of these
19 companies are major operators in the north, while
20 Noranda is trying to establish a presence. Falcon-
21 bridge also operates (as well as in the north) in the
22 Union of South Africa, Southwest Africa or Namibia,
23 and Rhodesia or Zimbabwe; the racial policies of
24 these countries are well-known, with the United Nations
25 having imposed sanctions against Rhodesia and the
26 South African occupation of Namibia having been
27 declared illegal by the International Court of Justice
28 and the United Nations . Texas Gulf, which is 30%
29 owned by the Canada Development Corporation, and which
30 recently made a major base metal strike at Izok

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In Chief

1 Lake north of Yellowknife, is involved in a joint
2 venture arrangement with the Government of Panama to
3 develop a massive copper deposit in the middle of the
4 Guaymi Indian Reservation, notwithstanding Indian
5 opposition. Nor does this list have to be confined
6 to the mineral sector; the Hudson's Bay Company is
7 also in Namibia, as the major participant in the
8 trade in karakul fur -- in defiance of the internation-
9 al policy.

10 These are the extremities of
11 corporate irresponsibility, but they have the virtue
12 of highlighting the problem. It seems reasonable to
13 conclude that the Dene should not place a blind trust
14 in the companies. They are no better -- the companies
15 are no better than the institutional framework of
16 government policy within which they operate; indeed,
17 worse than that, there is little evidence to suggest
18 that they attempt to get bad governments to be better,
19 and worst of all, there is considerable evidence to
20 suggest a willingness to shore up corrupt or reactionary
21 regimes.

Puxley & Watkins
In Chief

1 Nor is that the end of the
2 matter, for the corporations have at least some
3 capacity to influence governments and governments,
4 notwithstanding their professed pursuit of the public
5 interest may sometimes adopt a more pro-development
6 stance with respect to a particular country or
7 a region therein, than do the companies which tend to
8 have global options.

9 There is reason to believe
10 that the applicants and the companies which make up
11 their consortia are not without influence on government.
12 Professor Dosman's book in particular, and a host of
13 other books on the petroleum industry in general,
14 certainly leaves one with that impression. Specifically,
15 it is of more than passing interest that the leading
16 student of the contemporary Canadian Establishment,
17 Peter Newman, lists Mr. William Wilder, Chairman of
18 Arctic Gas as one of a handful of businessmen or what
19 Newman calls "senior business ambassadors", with whom
20 Prime Minister Trudeau has "friendly relations" and
21 with whom he has dined privately in the search for econo-
22 mic advice. Newman tells us as well that Mr. Robert
23 Blair, President of Foothills:

24 "...has suddenly emerged as Alberta's most
25 important business man",
26 while the press is replete with hints as to the close
27 working relationship of Mr. Blair's Alberta Gas Trunk
28 with the Lougheed Government.

29 As to the pro-development
30 policies of the Canadian Government with respect to the

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In Chief

1 north, we have the detailed documentation of the inner
2 workings of the government as disclosed by Professor
3 Dosman. It leaves no doubt that the government is advance-
4 man as well as barker for the northern oil and gas play.
5 It is a stark example of how, like the proverbial tail
6 that wags the dog, the mere prospect of staple production
7 sets in feverish motion the whole body of politics.
8 Certainly there is no known case of the companies not
9 getting their way on a matter of major importance.

10 The central issue to the
11 native people is, of course, their land claims.
12 Here Dosman documents very precisely that the government
13 knowingly and willfully decided to proceed with the gas
14 pipeline before settling native land claims. Its'
15 hopes for a quick pipeline were dashed, because of events
16 in the United States, but it stuck to this position
17 in spite of this...and in spite of the willingness of
18 the U.S. Government to settle with the Alaskan native
19 people and in spite of the formation in 1971-72 of
20 COPE, the Indian Brotherhood of the N.W.T. and ITC,
21 all insisting that there were unsettled land rights.
22 The decision of Mr. Justice Morrow in the caveat case
23 was a blow to the government's policy of deceit,
24 says Dosman and led to some softening but to quote him,
25 "Indian Affairs and Northern Development still
26 held back on the promise of a land settlement prior
27 to pipeline construction".

28 It still does.

29 On the basis of the sorry
30 record of corporations and governments in the north, it

Puxley & Watkins
In Chief

1 does not seem unreasonable for the Dene to have their
2 doubts about stated good intentions. Indeed, given
3 the performance of corporations and government, the
4 Dene cannot sensibly rely on them to protect the Dene
5 interest. They would appear to have no alternative
6 but to assume to themselves a very significant amount
7 of political control -- although surely to hunt, fish
8 and trap is a more wholesome activity. If they could
9 establish a Dene authority over Dene land within
10 the constitutional frame-work of Canada, which Professor
11 Russell has indicated is both possible and desirable --
12 then they would be in a position to bargain directly
13 with those companies which wished to enter their land.
14 Out of that process could come the terms and conditions
15 under which a project could proceed. In the absence
16 of a bargain being struck, the project could not proceed.
17 This is indeed to place a heavy burden and responsibility
18 on the Dene and one not without its continuing hazards
19 for the Dene themselves in the face of companies which
20 possess great power -- but the right to determine one's
21 own future is a fundamental right and the eternal
22 vigilance needed to exercise it on a day-to-day basis
23 could be the key to the collective survival of the
24 Dene and their continuing development as a people.

25 The third section deals with
26 the question of the nature of the land claim and
27 alternative development.

28 THE COMMISSIONER: Well,
29 excuse me. Did you say Mr. Bell that you have one
30 witness to call tomorrow?

Puxley & Watkins
In Chief

1 MR. BELL: I have three
2 witnesses to call tomorrow sir. I thought that since
3 two of them won't be arriving until five o'clock, we
4 may have to have an evening session, but I would like
5 to get all three of them on tomorrow if I could.

6 THE COMMISSIONER: Yes.
7 Then --

8 MR. BELL: Then there is one
9 more panel after that consisting of four witnesses.

10 THE COMMISSIONER: You want
11 to sit on --

12 MR. BELL: On Thursday.

13 THE COMMISSIONER: Thursday.

14 MR. BELL: Yes.

15 THE COMMISSIONER: That's
16 a Statutory holiday but if that's the only day when
17 you can present those witnesses to the Inquiry, I
18 think we'll have to go ahead on that day.

19 What I was just going to get
20 at was whether we could have the cross-examination of
21 this panel tomorrow and then hear the witnesses. Is
22 there a witness who will be here to give evidence in
23 chief?

24 MR. BELL: Yes, tomorrow
25 afternoon there will be.

26 THE COMMISSIONER: Tomorrow
27 afternoon. Well then, we don't have to cross-examine
28 this panel this afternoon. We could leave that until
29 the morning I suppose. Could we? The Counsel might
30 cogitate over than and we'll break now for a few minutes
for coffee.

(PROCEEDINGS ADJOURNED FOR A FEW MINUTES)

Puxley, Watkins
In Chief

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: Well, we will come to order and consider the remainder of Mr. Watkins analysis. Is all of this stuff working again? Go ahead, whenever you're ready.

WITNESS WATKINS: The third section of the evidence deals with the land claim and alternative developments. The problem that some people may have, including perhaps the applicants, in understanding the nature in extent of the land claim, is that both the word land and the word claim are somewhat misleading.

To use the word "claim" is to imply that native people are claiming their homeland and rights, while the erosions of colonialism are real, we should at least say "reclaim", but perhaps the best word is "declaration", as in Dene Declaration. That is the Dene are declaring their rights. My dictionary gives as the meaning of declare, "make known, proclaim publicly", that is, it is something the declarant already knows.

To the Euro-Canadian, the word land conjures up property rights and property rights means -- and property means something that is marketable and subject to expropriation.

Clearly, the word land means much more than that to the Dene and specifically in Euro-Canadian language includes rights of control or political rights. The collective expression of political rights is what we would customarily call self-determina-

1 tion. By land claim then, the Dene apparently mean,
2 a declaration of the right to self determination. Thus
3 the Dene Declaration is the central statement of their
4 claim.

5 Now as Professor Saul already
6 argued, before this Inquiry, self-determination is a
7 many faceted phenomenon, with different dimensions
8 reinforcing each other, thus significant economic
9 independence, while it cannot in itself be sufficient,
10 is nevertheless necessary for self-determination.
11 Indeed, insofar as the Dene cannot achieve political
12 independence, for they accept that they are part of
13 Canada, the degree of economic independence needed
14 may become that much more important.

15 What is here called economic
16 independence, is what the Dene call alternative develop-
17 ment. That term can be understood to mean an alternative
18 to the development of the non-renewable resource
19 sector, which, in fact creates under-development for
20 native people. Along the lines suggested earlier, it
21 could be seen as meaning a two sector economy. That is
22 a non-renewable resource sector under white ownership
23 but subject to Dene control and a renewable resource
24 sector under Dene ownership and control.

25 Take the renewable resource
26 sector first. A strong, indeed compelling case, can
27 surely be made for exclusive Dene rights in this sector,
28 not only to hunt, fish and trap, but with respect to
29 the whole area of game management. Indeed, of all
30 renewable resource management including forests and

Puxley, Watkins
In Chief

1 water. While non-Dene Northern residents and the
2 bureaucracy of the Territorial government might be
3 expected to resist this logic, it could be acceptable
4 to the developers and the federal government, for whom
5 the main chance is non-renewable resources, except
6 with respect to hydro-electric power development, which
7 may be a major exception. But there are hidden
8 implications, not only for the developers, as we shall
9 see directly, but also for the Dene.

10 For the Dene, what would
11 seem to be at issue is not only the protection of their
12 traditional economy, but the right, indeed the necessity
13 to create their own contemporary economy around
14 renewable resources. Just as it is increasingly recog-
15 nized that the genuine development of the Third World
16 hinges on agrarian reform, on the modernization of
17 agriculture to serve domestic needs, so the genuine
18 development of the North presumably hinges on the
19 modernization of the renewable resources sector by
20 the Dene to serve Dene needs.

21 Productivity must be improved
22 and given the extent, both of present underemployment
23 and the rapidity of growth of the native population,
24 the sector must be expanded so that more people can
25 be gainfully engaged in it. It would appear that the
26 Dene prefer involvement in the renewable resource
27 sector to involvement, at least on a full-time basis,
28 in the non-renewable resource sector, but a restructuring
29 of the renewable resource sector must take place so
30 that it becomes a clearly viable sector in material

1 terms. Given the government's obsession with the non-
2 renewable resource sector to the virtual exclusion of
3 all other considerations, such restructuring, is to say
4 the least, unlikely to take place except in the context
5 of a land settlement and its subsequent implementation.
6 In any event, it will hardly constitute Dene develop-
7 ment unless it is done by the Dene themselves.

8 It would be a considerable
9 advance to have the recognition of exclusive Dene
10 rights to harvest and to manage renewable resources,
11 but it would not be sufficient. There are two reasons
12 why this is so. That is there are at least two
13 identifiable mechanisms of underdevelopment, which
14 impinge on the renewable resource sector from the non-
15 renewable resource sector and which would have to be
16 converted into mechanisms of development.

17 The first is that activity in
18 the non-renewable resource sector does damage to the
19 renewable resource base and thereby threatens the
20 continuing viability of that sector. The Dene can
21 only be effectively protected against this by having
22 themselves the power to protect their land. Even the
23 exclusive rights to use the renewable resources will
24 be of insufficient avail if the right is not protected.
25 Hence, alternative development must include the right
26 to control over the non-renewable resource sector so
27 as to limit environmental degradation and competing
28 uses to an extent that is tolerable to the Dene.

29 The second mechanism of under-
30 development is the failure of economic surplus generated

1 in a non-renewable resource sector to accrue to the
2 benefit of the renewable resource sector. What is
3 at issue here is not only the right of the land owner
4 to appropriate the rent, but the loss of the potential
5 to create Dene development when that does not happen.
6 Put more concretely, to create a viable Dene renewable
7 resource sector requires both capital goods and Dene
8 with both traditional and modern skills, both of these
9 in turn, require money. So long as the money is made
10 available under the whiteman's control, whether it be
11 so-called Indian economic development funds under
12 government auspices, or whether it be the building
13 and operating of schools that destroy all-around Dene
14 skills, then Dene development is a contradiction in terms.
15 Hence, the right to alternative development must include
16 the right to tax the non-renewable resource sector or
17 impose royalties thereon,^{so} as to fund the Dene economy
18 and the Dene institutions, which will permit of con-
19 tinuing Dene development.

20 This is not to pretend to
21 make a judgment about exactly how much rent should go
22 to the Dene, but some principles can be laid down.
23 Firstly, as previously noted, given the observed failure
24 of the government to come anywhere near to fully
25 appropriating economic rents in the North and the apparent
26 intention to continue to operate that way for the
27 indefinite future, there is a good deal of room for
28 the Dene to appropriate rents at no cost to the great
29 majority of southern Canadians, who are not shareholders
30 in the oil and mining industries, but solely at the cost

Puxley, Watkins
In Chief

1 of reducing the super-profits of the corporations.
2

3 Secondly, the Dene would have
4 the right to forego rent by vetoing projects, or short
5 of that, compelling changes in them that would increase
6 costs to the companies and hence lessen the rents
7 available for appropriation. A specific variant on
8 this, which has received a tentative blessing of the
9 Science Council, would be to discourage new townsites,
10 particularly for mines, and generally encourage the
11 flying in and out of personnel from the South; this
12 would presumably increase the cost to the companies,
13 but would not necessarily increase the true social
14 costs which include large costs for infrastructure,
15 which are mostly not borne by the companies, but rather
16 by governments and individuals.

17 Thirdly, if rents accruing to
18 the Dene are to be justified by some criteria based on
19 need, that is, the Dene should get enough but not too
20 much, then the criteria implicit in this analysis are
21 simply what is necessary both to provide capital for
22 community based economic development, until it becomes
23 viable and self-sustaining, and has created full
24 employment in the communities, and to permit the ongoing
25 subsidization of Dene institutions. If schools are
26 included in the latter because the Dene were to so
27 wish, then it should be borne in mind that there is
28 no necessary net cost to society, since the schools are
29 now funded by the government rather than by the Dene
30 themselves.

A final observation on this

Puxley, Watkins
 In Chief

third principle is to remind ourselves, as Harold Cardinal already has, that the Indian people have a tradition of sharing. In spite of statements sometimes made to the contrary, there is no evidence that the Dene are asking for a King's ransom.

A major theme of this evidence is that a concern with economic development compels us to concern ourselves with political control. In institutional terms this implies, in the context of a land settlement, both the right of the Dene to create their own institutions and a need to limit full political rights to long-term residents of the North. Specifically the logic of this evidence, though focused on the economic, strongly supports a residency rule for participation in local and territorial elections, such as the ten-year residency rule proposed by the native organizations.

Puxley & Watkins
In Chief

And I conclude this particular section on alternate development -- and I won't read all of this -- by firstly citing a statement that emerged out of an Indian Brotherhood work shop of regional field co-ordinators at Fort Simpson in October, 1974, and it's been published and circulated already, entitled:

"What does development mean for the Indian people of the Mackenzie District?"

I have tried, so far as possible, in the arguments I have made to conform to what seems to me to be the logic of that paper, and I also looked at and cited some of the statements made by the president of CIDA, which is responsible for Canadian Foreign Aid which Don Simpson talked about when he was here, and it's clear that from these statements that very large projects like pipelines are not thought to be desirable when you engage in aid activities, at least if we are to take the rhetorics here seriously and not what the Canadian Government would support. I think that if-- and of course it isn't -- but if the north were a separate country, if I understand the position of CIDA, a pipeline would not qualify for any kind of Canadian assistance although almost certainly if a pipeline is ever built here, it will on the model of all previous major pipelines in Canada, end up receiving in fact substantial Canadian assistance, perhaps the guarantees of bonds or something of that nature.

I think we should operate at least as well internally as we operate externally.

Puxley & Watkins
In Chief

1 The final section of my
2 evidence deals with the public interest, the Dene
3 interest, and I deal with this because it's the most
4 consistent argument used to put down Indian people is
5 the argument about the public interest. As I've just
6 said then, the most persistent argument used by develop-
7 ers, private and public, is that large-scale resource
8 projects serve the public interest. If the residents
9 of the region where the project is to take place
10 object, in the final analysis they are put down by
11 appeal to the public interest. This is justified by
12 saying that the national interest must over-ride the
13 regional interest, with the reality for contemporary
14 large-scale energy resource projects being that the
15 relevant regional interest is the native interest.
16 The native interest, which is real, is then disposed
17 of either by saying in effect that it must regrettably
18 be over-ridden, or by asserting that in some long-run
19 sense the two interests are really identical.

20 Yesterday in James Bay the
21 Cree were coerced into a settlement involving extinguish-
22 ment of their aboriginal rights to the land in the name
23 of the public interest. Today the Dene are told that
24 a pipeline may have to be built prior to a land
25 settlement because it is in the public interest. Right
26 across Northern Canada, native people are having large
27 projects pushed down their throats, with corporate
28 executives and government officials telling them that
29 the greater good must take precedence over the
30 regional interest of a handful of people.

Puxley & Watkins
In Chief

1 This is no new phenomenon,
2 but rather has deep historic roots. Since the
3 beginning, the Indian interest has been sacrificed on
4 the altar of the public interest, or what Professor
5 Ted Chamberlin calls "the common good" in his penetrat-
6 ing study of white attitudes toward North American
7 natives, "The Harrowing of Eden." He eloquently
8 summarizes the use of this technique over the centuries:

9 "It was for the common good that the western
10 lands were opened up for settlement, even as
11 the eastern lands had been settled; it was
12 for the common good that treaties were signed,
13 and often broken, and that provision was made
14 in these treaties for roads, way stations,
15 trading houses and forts, which could be built
16 at governmental whim on lands reserved for
17 Indians; it was for the common good that
18 rail and road links were established through
19 Indian land to link east and west; it was for
20 the common good that Indian hunting and fishing
21 rights, guaranteed by treaty or solemn promise,
22 were revoked to make room for people or things
23 (such as dams) to serve people, or programs
24 (such as conservationist schemes) to satisfy
25 people; it was for the common good that Indians
26 were herded like cattle, treated like children,
27 swatted like flies, and quarantined like
28 animals suspected of having rabies."

29 It happened that way but it
30 did not have to and should not have. But are there

Puxley & Watkins
In Chief

1 in fact any principles that can be enunciated, applic-
2 able to a project like the proposed gas pipeline, to
3 resolve what some people persist in seeing as a cruel
4 dilemma?

5 Let us return to the analysis
6 in the first section of this evidence bearing on the
7 so-called staples approach. Virtually without exception,
8 the massive energy projects under way or planned for
9 Northern Canada serve outside interests -- and by that
10 I mean needs external to Canada. So the choice is not,
11 in fact, simply between the national interest and the
12 regional native interest. Typically in this century,
13 there is the over-riding American or continental inter-
14 est, and it cannot be simply assumed that what serves
15 the American interest automatically serves the national
16 interest. (In terms of the applicants, Arctic Gas
17 clearly serves, first and foremost, the American inter-
18 est, since it wishes to transport natural gas from
19 one part of the United States to another part of the
20 United States, a kind of contemporary version of the
21 Panama Canal. Foothills, properly viewed, serves the
22 continental interest, since an alternative to its
23 pipeline for some time at least, and which could have
24 been done some time ago, is to eliminate exports of gas
25 to the U.S. Furthermore, were it to get the government
26 nod, then like Arctic Gas, it would have to go to bed
27 with the same U.S.-controlled producing companies. Also
28 the Arctic Gas proposal, and now Foothills' Fairbanks
29 corridor proposal, appear to hinge on treaty with
30 the U.S., guaranteeing safe passage of American gas

Puxley & Watkins
In Chief

1 through Canada. The erosion of Canadian sovereignty
2 implicit in such a treaty is reminiscent of the by-
3 gone era of the DEW Line in the north.

4 A significant dimension of the
5 choice then is choosing between the interests of non-
6 Canadians and the interests of native people who are
7 Canadians; it is of the essence of the nature of the
8 nation state that it should be biased in favor of its
9 own citizenry.

10 There is a further implication
11 to the staples approach. It is not only the north, as
12 the so-called new frontier which is driven by the
13 imperatives of staple production. So too, after close-
14 ly to four centuries, is Canada as a whole. We cannot
15 forever grow by expanding into new geographic frontiers,
16 for we are running out of places to go, and there is
17 little merit in emulating the example of the United
18 States after its frontier closed, circa 1890, which
19 finally landed it in Vietnam. The time may not be
20 too far distant when some considerable restructuring
21 of the Canadian economy, away from its staple export
22 bias to meeting the needs of Canadians to a greater
23 extent within itself will be necessary. In any event,
24 it is long overdue, and the need for a more humane
25 approach to further northern development seems to me
26 to be the best possible reason for beginning the task
27 of restructuring now.

28 At the same time, there is
29 also the growing realization that energy -- whether
30 exported to the U.S. or used in Canada -- is being

Puxley & Watkins
In Chief

1 massively wasted. The important new book by Barry
2 Commoner, "The Poverty of Power", is devastating on
3 this point. It would appear that the interests of the
4 native people are being sacrificed for no better
5 reason than that neither United States nor Canada has
6 anything even vaguely resembling a rational energy
7 plan, and coincidentally, it is the very developers
8 of the projects who simultaneously use their political
9 clout to prevent the working out of such a plan.

10 Just as evidently, there is
11 growing concern about the environment, and the public
12 interest in that area, properly perceived, will
13 almost certainly be better served by the native people
14 than it presently is by the corporations and the
15 government. That is likely to be the case not only
16 because native people have a respect for the environment
17 not found amongst those who are powerful in white
18 society, but because, to quote Dr. Schumacher again:

19 "It is moreover obvious that man organized
20 in small units will take better care of their
21 bit of land or other natural resources than
22 anonymous companies or megalomaniac governments
23 which pretend to themselves that the whole
24 universe is their legitimate quarry."

25 ^{what}
26 -- bearing in mind, of course, that Dr. Schumacher
27 calls "bits" come big in the north .

28 There is a danger, of course,
29 of putting too fine a dress on these matters. For
30 when all is said and done, development takes place
31 because that is how developers make money. If a higher

Puxley & Watkins
In Chief

1 purpose is served, then it's largely coincidental.
2 Furthermore, the developers do their best to define
3 the public interest, thereby improving their likelihood
4 of serving it. Corporate advertising by the oil industry
5 on the need for frontier resources, a kind of violence
6 to the truth sandwiched between the real violence of
7 Hockey Night in Canada, is a relevant case in point.

8 But even all this does not
9 strike to the heart of the matter. Are there circumstan-
10 ces in which we are entitled to over-ride the native
11 interest? Bearing in mind as well that this may not
12 mean foregoing projects, but rather significantly
13 altering their structure and timing. I think not, for
14 we must recognize what we are doing if we do that. If
15 people of a fundamentally different culture say "No"
16 to the demands of a dominant culture, and the dominant
17 culture proceeds anyway, then what we are describing
18 is in the ordinary sense of the term, imperialism.
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In Chief

1 In what possible sense can
2 the "greater good" be served by such an act of coercion?
3 What are those of us who are complicit in the act to
4 do? Presumably we must either plead ignorance or
5 bear the guilt or assert the rightness of oppression.
6 But none of these can be said to leave us better off.

7 A major theme of my evidence
8 has been that many native people in this country are
9 in their present impoverished position because of what
10 has been done to them in the past. We can specify the
11 mechanisms of under-development by which the damage
12 has been done.

13 We can work out the means by
14 which these mechanisms can be transformed into
15 mechanisms of development. What excuse can there be
16 for not doing it?

17 The Indian people right
18 across Canada self-evidently need Indian economic
19 development under Indian control. That does not mean a
20 stark choice between either "traditional" activity or
21 wage employment with non-Indian controlled enterprises.
22 As George Manuel has written,

23 "Countless numbers of Indian communities have
24 rejected proposals offered to them under the guise
25 of economic development that promised an uncertain
26 number of menial jobs with no specified opportuni-
27 ties for advancement, in return for ninety-nine
28 year leases and unpredicted amounts of pollution.
29 This is not a cruel dilemma between moving in one
30 direction or another. It is a choice between one

Puxley & Watkins
In Chief

1 kind of stagnatory poverty and another."

2 There is a third way, the
3 way of alternative development. How do projects like
4 the proposed gas pipeline contribute to that, directly
5 here and indirectly elsewhere by example, unless the
6 occasion of a large project affecting Indian land should
7 first become the occasion for the working out of a new
8 land settlement with Indian people? To start the
9 pipeline prior to such a settlement would be to lose
10 that once-and-for-all opportunity and must be seen as
11 intolerable.

12 Nor, as is implied above, is
13 it only the Dene who will be the losers. It is evident
14 from the southern hearings of this Inquiry that the
15 struggle against the pipeline and for a just and equit-
16 able land claim for the Dene is a concern of all
17 Indian people in Canada. Put differently, the issue is
18 not merely between the alleged national interest and
19 the Dene interest. It has also become one between the
20 former and the interest of all aboriginal people in
21 Canada. That is as it should be, but it must be under-
22 stood that the damage that will be done by starting a
23 pipeline before a land settlement is thereby made yet
24 more intolerable.

25 There is yet another tactic of
26 evasion and that is to try to turn the native people
27 into white people. "Integrate" them into the wage
28 economy, indeed, into the whole mores of white society
29 in fact, the former already implies much of the latter.
30 The native interest is disposed of literally and all

Puxley & Watkins
In Chief

1 that is left is the public interest. It is, of course,
2 the most insidious of solutions. It has been rejected
3 again and again by the Indian people, which is sufficient
4 reason for its abandonment.

5 Just a one paragraph conclusion.
6 The Dene assert that starting a pipeline prior to a
7 land settlement would prejudice their land claim. It
8 is difficult to see how it could be otherwise. The
9 companies ask: "How can we avoid prejudice?" The
10 answer, which is understandably rejected by them, is
11 that their very presence here, before the Dene have re-
12 claimed their historic rights, constitutes prejudice.
13 They did not come with the consent of the Dene so
14 they should not be here. If they wish to be here and
15 to stay here, they must try to strike a bargain with the
16 Dene. The role of the government is to let this
17 happen, to give the Dene the space they need -- the geo-
18 graphic space and the political space -- knowing that
19 what redounds to the benefit of its least prosperous
20 citizens must ultimately redound to the prosperity of
21 the democratic state.

22 THE COMMISSIONER: Thank you
23 Mr. Puxley and Mr. Watkins.

24 I think our schedule indicates
25 that it's appropriate to postpone cross-examination
26 of this panel until ten o'clock tomorrow morning. That
27 means that the motion that I understand Foothills
28 wishes to bring before the Inquiry regarding the
29 relevance of Mr. Helliwell's evidence could be argued
30 now.

(WITNESSES ASIDE)

MR. HOLLINGWORTH: Sir, I would propose that certain evidence Mr. Bell wishes to call should be excluded. The prepared testimony of John Helliwell, I submit, covers areas which are not within your terms of reference.

Dr. Helliwell has filed some ten pages of evidence along with a detailed, and in my view at least, exceedingly complex chart entitled, "The Mackenzie Valley Pipeline Proposals Assessed in the Broader Context of Canadian Energy Supply and Requirements". He seeks, as I understand it, to make three broad points. The first, to establish the cost savings of the Arctic Gas scheme over that of El Paso and therefore the value of the Arctic Gas Corridor. Secondly, to whom the net economic benefits accrue, assuming that there is sufficient gas in the delta to fill the Foothills line or supply one-half of the Arctic Gas capacity.

THE COMMISSIONER: Excuse me. You say that these are the four points Mr. Helliwell seeks to make.

MR. HOLLINGWORTH: Three sir.

THE COMMISSIONER: Right. What was the first one again?

MR. HOLLINGWORTH: To establish the cost savings of the Arctic Gas Corridor over the El Paso Corridor -- I should say the Arctic Gas Scheme over that of the El Paso Scheme and therefore, the value of the corridor which Arctic Gas proposes to use.

1 THE COMMISSIONER: Yes.

2 MR. HOLLINGWORTH: The second
3 is to whom the net economic benefits accrue, assuming
4 sufficient gas is found in the delta to fill the
5 Foothills line or to supply one-half of the Arctic
6 Gas capacity. The third is to determine the economic
7 consequences from earlier versus later development or
8 construction of the pipeline.

9 In my submission sir, these are
10 largely national issues more properly dealt with by the
11 N.E.B. and/or the Cabinet.

12 Dealing first with the document
13 that I mentioned, that is to say the one entitled, "The
14 Mackenzie Valley Pipeline Proposals Assessed in the
15 Broader Context of Canadian Energy Supply and Require-
16 ments", we are bound to treat this, as I understand the
17 rules of the Inquiry, as accepted evidence unless it is
18 contradicted.

19 THE COMMISSIONER: Sorry, I
20 was just writing. Would you mind going back to where
21 you left off. The third point was that Helliwell seeks
22 to show what the impact would be if the pipeline were
23 built later rather than sooner?

24 MR. HOLLINGWORTH: That's
25 right, the economic consequences.

26 THE COMMISSIONER: Yes. O.K.
27 What did you say then? I'm sorry.

28 MR. HOLLINGWORTH: Now, I
29 feel sir that these are largely national issues which
30 should more properly be dealt with by the Energy Board

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1 could assess that. I don't -- apart from the question
2 of my capacity to do so.

3 MR. HOLLINGWORTH: Well even
4 given that sir, he comes up with a figure which he
5 concludes to be the net economic benefit accruing from
6 the CAGSL route and therefore available presumably
7 to the native population in the form of right-of-way
8 charges or something of that nature. But in my submis-
9 sion he is still transcending the local issues and
10 getting into national issues because he seems to ignore
11 the fact that the Arctic Gas route traverses not only
12 land in the Northwest Territories, but also lands in
13 Alaska, the Yukon Territory, Alberta, British Columbia,
14 Saskatchewan and the lower 48 States. As far as I can
15 see, it is a total absence of any consideration of the
16 CAGSL line extending beyond the Northwest Territories
17 at either end.

18 He further apparently asserts
19 that the United States, as I understand him -- that
20 the United States users of the line should pay a great-
21 er right-of-way charge than Canadian users which is
22 surely a purely political decision which is not to be made
23 by you or even by the National Energy Board.

24 THE COMMISSIONER: What was
25 this one again? Sorry.

26 MR. HOLLINGWORTH: Well, as
27 I understand him sir, he is asserting that the United
28 States users of the Arctic Gas line should pay a greater
29 right-of-way charge than Canadian users. I'll refer
30 you to --

1 THE COMMISSIONER: No, I'll
2 take your word for it.

3 MR. HOLLINGWORTH: Yes. Well,
4 I may have mis-interpreted it and I'm sure Mr. Bell
5 is going to rise to that by the looks of things. But
6 this is my understanding of what he is saying. I say
7 that this is a purely political consideration which is
8 totally outside the terms of reference of this Inquiry
9 and probably that of the National Energy Board.

10 Now, dealing with the second
11 issue, and that is to whom net economic benefits accrue,
12 assuming sufficient gas in the delta, Dr. Helliwell
13 assesses rents. That is, economic rents that Mr.
14 Watkins spoke of and Mr. Jelliss proposes to speak
15 of and where these rents go.

16 Now, I don't think there's
17 any objection to that on a regional basis. However,
18 in the middle of this rather short statement, Dr.
19 Helliwell launches into a theory of developing
20 frontier reserves versus non-frontier reserves and the
21 economic consequences of each. In arriving at his
22 figures for the rents, he --

23 THE COMMISSIONER: Those
24 frontier reserves being Alberta?
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1 MR. HOLLINGWORTH: Yes, and
2 British Columbia; and in arriving at these rents he
3 relies on his estimates of supply requirements and
4 reserves, and that gets right back to the document
5 that I take exception to.

6 Now he also deals with the
7 Foothills cost benefit study, which he's certainly
8 free to do, of course, but if this evidence is admitted,
9 then I can state that considerable cross-examination
10 will ensue, and I will seek to call a cost -- to call
11 our cost benefit experts because we don't agree with
12 his supply requirement figures.

13 THE COMMISSIONER: Excuse me,
14 sorry to interrupt you again. What is this Foothills
15 cost benefit analysis?

16 MR. HOLLINGWORTH: Well, it's
17 a cost benefit analysis that is put into the application
18 largely for the requirements of the National Energy
19 Board to show the cost -- it's the cost benefit analysis
20 of the total pipeline in the national context.

21 THE COMMISSIONER: Oh, national
22 economic impact?

23 MR. HOLLINGWORTH: Yes.

24 THE COMMISSIONER: And the
25 exchange rate and balance of payments and all that sort
26 of thing?

27 MR. HOLLINGWORTH: That's right.
28 It's another form of the argument the opponents put
29 saying that the pipeline would cost more than the bene-
30 fits accruing from it.

1 The last argument Dr. Helliwell
2 pursues is to determine the economic consequences from
3 early versus later developments, and he argues that
4 the forecast economic consequences favor a later
5 construction schedule and that this would be favorable
6 for the natives. Now I think this comes to what may
7 be the crux of the whole issue about this motion.

8 I submit that Dr. Helliwell
9 has dressed up his old national arguments, which are
10 well-known, into local dress and is seeking to advance
11 them as a regional economic issue. But I further
12 submit that while he is entitled to argue that develop-
13 ment of the pipeline should wait, he should do so on
14 the assumption that oil and gas supply and demand will
15 permit it, and not try and prove the latter statement.
16 He should not argue that the actual supply and demand
17 -- because that, sir, is with respect, outside your
18 terms of reference and really it's largely a matter of
19 argument then, his whole statement, in my view.

20 THE COMMISSIONER: But you are
21 saying that -- so I think I follow you -- you say that
22 he should assume that he's right about this supply/demand
23 thing and that -- and are you then conceding that
24 his discussion of the benefits that delay would confer
25 on residents of the N.W.T. is relevant? Is there such
26 a discussion in here?

27 MR. HOLLINGWORTH: Well, there
28 isn't really such a discussion, sir, because I think
29 it's outside Dr. Helliwell's terms of expertise and I
30 think some of the other witnesses which Mr. Bell has

1 called are much more able to advance those types of
2 arguments.

3 THE COMMISSIONER: Yes.

4 MR. HOLLINGWORTH: I think the
5 whole reason for Dr. Helliwell being here is to provide
6 the groundwork for saying that economic benefits would
7 accrue by having later development, and then other
8 witnesses come along and say ^{look} what later development
9 will do for us. I think they're perfectly entitled
10 to advance the latter proposal, but I don't think they
11 are entitled to advance the former.

12 THE COMMISSIONER: The former
13 being?

14 MR. HOLLINGWORTH: The former
15 being that Canada's energy supply and requirements
16 permit it.

17 THE COMMISSIONER: Well, that's
18 what I said in, what I was going to say the Mackie case.

19 MR. HOLLINGWORTH: Scott vs
20 Mackie.

21 Now sir, if Dr. Helliwell is
22 permitted to present his evidence as it is presently
23 written, I submit that there would be a conflict with
24 your ruling of August 22, 1975, and your terms of
25 reference. Mr. Mackie argued that his supply and
26 requirement study dictated an early start on the
27 pipeline; and Dr. Helliwell argued that his studies
28 support the opposite view, and I fail to see any
29 distinction.

30 Further, sir, I am mindful

1 of Mr. Bell's argument of August 21, 1975. At that
2 time he gave some grudging support to the Foothills
3 motion to present Mr. Mackie's evidence, but pointed
4 out that the cross-examination^{and} rebuttal evidence could
5 take some time. The same holds true today. If Dr.
6 Helliwell appears, we will have extensive cross-examina-
7 tion for him. Beyond that I would consider a motion
8 for reconsideration of Mr. Mackie's evidence in light
9 of the admission of Dr. Helliwell's evidence, and I
10 would want to call a panel on the cost benefit conclu-
11 sions reached by Foothills Pipe Lines.

12 Those are all the submissions
13 I have, sir.

14 THE COMMISSIONER: Mr. Steeves?

15 MR. STEEVES: I join with my
16 friend, Mr. Hollingworth, in his submission, and
17 respectfully adopt the arguments put before you.

18 THE COMMISSIONER : Mr.
19 Bayly -- or do you want to comment, Mr. Bell? Do you
20 want to say anything --

21 M R. BAYLY: I may support
22 Mr. Bell, but I'd like to hear what he has to say first.

23 MR. BELL: Well, sir, I'd
24 first like to say that I think it's entirely unfair
25 of counsel to try and hold me to what I said last
26 year. We have been operating under the preliminary
27 rulings and the order-in-council for some time now,
28 and perhaps it would help to just refer to a brief
29 passage in the preliminary rulings concerning evidence
30 about economic impact.

1 You said, sir, that there
2 will be evidence which relates essentially to economic
3 impact. It must, however, be evidence designed to
4 reveal the economic impact on the north. I am prepared
5 to hear evidence of the effect of the gas pipeline
6 on the rate of inflation, capital markets, the foreign
7 exchange rates, and other national economic indicators
8 to enable this Inquiry to ascertain the effect of the
9 gas pipeline on the economy of the north. But such
10 evidence will be allowed only for that purpose.

11 I think, sir, that the issue
12 that Dr. Helliwell's evidence addresses is not essentially
13 the question of gas supply and demand, a question which
14 everybody concedes is within the sole jurisdiction of
15 the National Energy Board. We are not asking this
16 Inquiry to resolve this issue. Indeed, Dr. Helliwell
17 will be making a separate presentation on that very
18 question before the N.E.B.

19 The question to which Dr.
20 Helliwell's evidence is primarily directed is this.
21 In the absence of the recognition of native rights,
22 what benefits can native people in the Mackenzie
23 District expect to receive from the economic rents
24 which may be generated by a Mackenzie Valley Pipeline?
25 This, of course, is an issue which touches on the more
26 general question of the effect of the gas pipeline
27 on the regional economy of the north. I believe that
28 this is the first time that evidence on this point
29 has been offered to the Inquiry.

30 Now in order to deal properly

1 with this question, Dr. Helliwell is asking the
2 Inquiry to assume a certain situation with respect
3 to gas supply and demand.

4 THE COMMISSIONER: Excuse me,
5 Mr. Bell, isn't he seeking to argue that? For
6 instance, this computer print-out, this Inquiry isn't
7 qualified to understand this let alone discuss it, and
8 why -- what good is this to me? How does this relate
9 to the work of this Inquiry? That's for the National
10 Energy Board to decide whether Mr. Helliwell, who is
11 apparently^a very distinguished economist, to decide
12 whether Mr. Helliwell is right or whether Imperial
13 Oil is right? But what is this doing before me?
14 Four panels of numerical results followed by alphabetical
15 lists of the names and meanings of the variables
16 purported and so forth and so on, and --

17 MR. BELL: Well, sir, Dr.
18 Helliwell seeks to quantify the economic impact
19 of the pipeline, the regional economic impact of the
20 pipeline, and we can't really assess the economic
21 impact without some attempt to quantify it, some
22 attempt to ascertain what the economic rents from
23 this project will be, and we can't quantify the
24 economic rents without making some assumptions about
25 gas supply and demand. It's --

26 THE COMMISSIONER: These are
27 four sets of assumptions, are they?

28 MR. BELL: I think we can take
29 it that they are. I'm not an expert in this area.
30

1 The comments made by Dr. Helliwell on the question of
2 gas supply and demand are made solely for the purpose
3 of assessing the regional impact of the pipeline, both
4 in qualitative and quantitative terms. The points
5 raised by my friend, Mr. Hollingworth, concerning the
6 amounts that U.S. users should pay are necessary in
7 order to assess the extent of the economic rents
8 and the amounts that could be extracted from U.S.
9 consumers is part of that figure, it's part of the
10 economic rent that contributes to that figure.
11 Likewise, the timing of construction is necessary to
12 operate on some assumptions about the timing of
13 construction in order to accurately assess the amount
14 of economic rent.

15 In short, what I'm saying is
16 that this evidence is directed primarily towards the
17 economic impact on the region and we have no intention
18 of arguing otherwise, and that that is the sole purpose
19 of this evidence.

20 THE COMMISSIONER: Well, let
21 me just put it to you this way. That passage you read
22 from my rulings, what I had in mind there -- and it
23 may be that Mr. Helliwell's evidence comes within
24 the rulings -- what I had in mind was this. Suppose
25 that building of the Arctic Gas Pipeline would
26 result in an inflow of U.S. capital to build it that
27 would drive up the value of the Canadian dollar in
28 relation to the U.S. dollar, and thus impair in a
29 significant way the ability of -- to take two examples,
30 -- impair the ability of Pine Point to compete with
U.S. producers on the U.S. market.

1 Or the ability of the hunters
2 in Sachs Harbour, trappers, to sell white fox to the
3 U.S. market. Now, that is the kind of specific impact
4 on the regional economy, attributable to something
5 that occurs nationally, owing to the construction of
6 the pipeline, but I hope I am making myself clear.
7 That is something that it seems to me we should be able
8 to consider within the four walls of this Inquiry.

9 Now, if Mr. Helliwell's
10 evidence comes within that way of looking at it, I
11 suppose it comes within my rulings, but I might -- you
12 might just comment on what I've said if you wish?

13 MR. BELL: Yes sir. Well,
14 on the basis of the assumptions in Dr. Helliwell's
15 paper, and he concludes that economic rents from the
16 pipeline will be 4.6 billion dollars and out of that
17 amount, the portion that will accrue to native people
18 under present arrangements is nil. Now, we are arguing
19 here --

20 THE COMMISSIONER: Now what
21 does he -- does he then go on? What does he say after
22 that?

23 MR. BELL: The implication of
24 that is that if native people are to benefit from the
25 pipeline there has to be an alteration in the existing
26 arrangements for the distribution of economic rent.

27 THE COMMISSIONER: Well, that
28 means a land claim settlement?

29 MR. BELL: Yes.

30 THE COMMISSIONER: Well, --

MR. BELL: And this, Mr. Helliwell quantifiesthe figures. This merely puts it in concrete terms the amount of money that we're talking about.

THE COMMISSIONER: Well --

MR. BELL: I'm not saying that the land claim would be solely concerned with money, and I use the expression "land claim" subject to Mr. Puxley's and Mr. Watkins evidence today, but that I think the point was made by Mr. Watkins that in order to implement a land claim, capital would have to be made available for alternative development and what we're talking about here is a quantification of the amount of capital that would be available.

THE COMMISSIONER: Right, you say that if the pipeline were built today, the amount of money that should accrue to Canada is 4.6 billion and you say that native people in the North, as things stand now, would get absolutely nothing, by way of royalty taxes and so on and so forth, that's the point that you're making?

MR. BELL: Essentially, yes.

THE COMMISSIONER: All right.

Now, does Mr. Helliwell go on to say what native people would get if there were an appropriate land claim settlement?

MR. BELL: No, he doesn't.

THE COMMISSIONER: So, what it comes down to is that Mr. Helliwell's evidence gives us an indication of what an appropriate economic

it comes down to is that Mr. Helliwell's evidence gives us an indication of what an appropriate economic

gives us an indication of what an appropriate economic

rent, for the land owners of the North, the Northern people who allegedly own the land over which this pipeline is to pass and from which the resources are to be extracted.

That's essentially what it comes down to, that's what we're getting from Dr. Helliwell?

MR. BELL: It gives us an idea of the scale that we're talking about, yes.

THE COMMISSIONER: That's really the thrust of his evidence, that's why you're calling him?

MR. BELL: Primarily, yes, and I would submit that that's -- that falls within the terms of reference of the Inquiry, as a regional economic impact.

THE COMMISSIONER: Well, are we much farther ahead when we know that? I mean, presumably this thing won't be built unless there's some -- if the National Energy Board will presumably take the position that there's got to be some benefit in it for Canada, if it's going to be built at all. Can't we proceed on the assumption that there will be some net benefit to Canada if it is going to go ahead? Can't we leave it to the National Energy Board to determine whether there is a net economic benefit to Canada if this pipeline is built?

MR. BELL: Yes sir, and that economic benefit to Canada is not the same as Mr. Watkins pointed out today in his evidence, is not the

1 same as net economic benefit to the North.

2 THE COMMISSIONER: Oh, I
3 understand that, but isn't this 4.6 billion the
4 economic rent to Canada? Is it what Mr. Helliwell
5 conceives to be the appropriate economic rent for
6 Canada as a whole?

7 MR. BELL: I think what the
8 4.6 billion is, is the amount that could be appropriated
9 by Canada. Whether it will be or whether it should
10 be are other questions.

11 THE COMMISSIONER: The amount
12 that could be appropriated, I see. By Canada, not
13 by the North? The 4.6 billion is a national figure?

14 MR. BELL: Well, it's a figure
15 taken from the project.

16 THE COMMISSIONER: Take a
17 moment and solve it with Mr. Watkins if you like.

18 MR. HOLLINGWORTH: That's as
19 I understand it sir, accruing the federal government
20 and the producers combined. It ignores any other rents.

21 THE COMMISSIONER: Take your
22 time, let's sort this out. Let's hear from Mr. Bayly,
23 I fully expect he'll clarify this to the entire satis-
24 faction of all.

25 MR. BELL: I think if I could
26 just address your last point.

27 THE COMMISSIONER: Fine.

28 MR. BELL: Having consulted
29 my advisors. You're right to say that the 4.6 billion
30 is a national figure, in the same sense that the foreign

1 exchange rate is a national figure.

2 THE COMMISSIONER: Yes.

3 MR. BELL: And what we're
4 saying here is that the Dene are not going to be
5 claiming all of that -- all of the economic rents for
6 themselves. What we're suggesting is that the -- a
7 land claim in the term of art that it's become --

8 THE COMMISSIONER: Well,
9 you're saying they will not be in a position to insist
10 upon any part of the economic rent accruing to them
11 and for their benefit under their control unless land
12 claims are settled first. Land claims being understood
13 in the wide sense.

14 MR. BELL: Yes, and under
15 present arrangements that's true and the likelihood
16 of their getting anything is better, the higher the
17 figure I think we can say, so what we want to do is
18 to discuss that figure. We're saying that it's fiscally
19 possible to have a land claim that's envisaged by
20 the Dene. I think that's -- and for Professor Helliwell
21 to come here and say that he operates on given assumptions
22 without providing the basis of his assumptions, which
23 I think is what that appendix does, the print-out,
24 would leave him open to charges that he's just pulling
25 figures out of the air.

26 THE COMMISSIONER: Well, yes,
27 I see that. Well, in the absence of Commission Counsel,
28 does Special Counsel wish to say anything?

29 MR. JACKSON: I think, Mr.
30 Commissioner, Mr. Goudge's given some thought, I'm not

1 sure to this particular motion, but he's given some
2 thought and has been extensively advised, I think, on
3 Dr. Helliwell's evidence and it may well be that on
4 his arrival in the morning he may be able to shed
5 light on the matter.

6 THE COMMISSIONER: When will
7 he arrive?

8 MR. JACKSON: He'll be here,
9 I understand, on the morning plane, so by 9:30.

10 MR. BELL: Now, I'm sorry
11 sir, Dr. Helliwell won't be here until 5:00 tomorrow.

12 MR. JACKSON: So that would
13 give time for further argument in your --

14 THE COMMISSIONER: Yes--

15 MR. STEEVES: You might
16 be able to stop Dr. Helliwell in Edmonton.

17 MR. JACKSON: The alternative,
18 I don't know whether this is acceptable to counsel,
19 but it may well be from hearing the argument so far,
20 that there's some differential effect in terms of
21 Dr. Helliwell's evidence. Some of it may be admissible
22 some of it may not. Whether there's some merit in
23 proceeding with the evidence, and after its conclusion,
24 counsel making further submissions.

25 MR. HOLLINGWORTH: That is
26 totally unacceptable.

27 THE COMMISSIONER: I don't --
28 well -- I knew that Mr. Hollingworth advised us that
29 he was going to make this motion and I read the evidence
30 except the copy that I had, the last five pages were

1 all blank, so I never got to the crunch. Well look,
2 this is important enough that I think in light of what
3 Mr. Jackson says, that we should wait until Mr. Goudge
4 arrives, if indeed he has turned the -- his attention
5 and his admittedly enormous powers of analysis to this
6 very question.

7 MR. BELL: If I could just
8 answer that Mr. Goudge used to be a research assistant
9 for Mr. Watkins, so perhaps he'll have a better under-
10 standing of this sort of thing than I do.

11 THE COMMISSIONER: Well I --
12 I don't know whether we should wait for him.

13 MR. HOLLINGWORTH: I wonder
14 if we could hear Mr. Bayly before the evening session?

15 THE COMMISSIONER: Yes, he's
16 there, yes.

17 MR. BAYLY: I will be fairly
18 brief, Mr. Commissioner, but I would like to speak
19 today if possible, as I may not be here tomorrow.

20 THE COMMISSIONER: Yes, go
21 ahead.

22 MR. BAYLY: I support the
23 calling of Mr. Helliwell's evidence, although I do
24 reserve the right not to agree with it. I do submit
25 sir, that that is not a proper ground for objection
26 to the evidence and I would suggest that that is one
27 of the grounds that Mr. Hollingworth has put forward
28 to you, that Foothills does not agree with it. That
29 may well be. There has also been the suggestion that
30 it should not be led because it will lead to extensive
cross-examination.

1 THE COMMISSIONER: That's
2 an argument addressed to expediency. I can't take that
3 into account.

4 MR. BAYLY: All right. I
5 was just going to suggest that you could not take that
6 into account sir because we certainly haven't used
7 that as an argument before with any success.

8 THE COMMISSIONER: Too bad
9 it hadn't been raised before.

10 MR. BAYLY: The evidence as
11 I see it from not only having read it but also Mr.
12 Hollingworth's analysis of it, breaking it down into
13 three points, compares the two schemes and suggests that
14 one may produce more economic rents than the other.
15 You sir are to be faced with the task of deciding
16 whether or not you are going to recommend that one
17 scheme is preferable for its impacts or lack of impacts
18 on the north over the other scheme. Now, you may choose
19 not to make recommendations about that but I suggest
20 you will at least be faced with that problem.

21 Mr. Helliwell at least --

22 THE COMMISSIONER: Well,
23 excuse me. You see, he's talking about El Paso and
24 Arctic Gas apparently. Well, that's nothing to do with
25 me on any reading.

26 MR. BAYLY: No sir, but he does
27 compare the two schemes -- the Foothills and the
28 Arctic Gas schemes -- as to the amount of economic rent
29 that they might generate. This is the point that Mr.
30 Hollingworth has just made that the Arctic Gas Scheme

1 will produce some cost savings. I assume that the
 2 deduction we make from that is that there will be more
 3 economic rents available.

4 Let's assume that everybody
 5 has agreed that the pipeline should benefit the
 6 people who live in the north now and will continue to
 7 live in the north after all the gas and oil has been
 8 extracted. I think both applicants and all other
 9 participants have suggested that they support that as
 10 well as the native groups. Mr. Helliwell suggests that
 11 no benefits will accrue other than wages to the in-
 12 dividual workers to the people of the north except
 13 as they come through benefits to Canada as a whole.
 14 Now, you sir are not to look at benefits to Canada
 15 as a whole. That is not within your terms of reference.
 16 You are to look at benefits that may accrue to the
 17 north. You may make recommendations to the Cabinet
 18 on the regional impacts, benefits or lack of them.

19 The Cabinet may reject those
 20 in favor of national benefits that are the concern of
 21 the National Energy Board, but as I understand Mr.
 22 Helliwell, he's addressed himself to a method for
 23 steering some of the economic rents to the region that
 24 you are considering directly rather than through rents
 25 that can be taken by way of taxes and other methods
 26 by the Federal Government and the re-distributed
 27 among the regions of Canada.

28 Now, whether anyone agrees with
 29 that or not, the fact that that may or may not be done
 30 will have an impact on the north -- an impact not only

1 economically because it may mean that there is a
2 greater or lesser amount of money in the north to be
3 spent on northern projects for northern people, but
4 also in a political -- in other words, a political
5 as well as a social way -- so that the people who have
6 been appearing before your Inquiry and saying to you
7 that they should have greater control over what goes
8 on in the north would have the tools to exercise that
9 control.

10 Now again, it may be that this
11 evidence is something that you can't make recommendations
12 on but it is addressed to that subject. It is addressed
13 to those kinds of impacts on the north and on northern
14 peoples.

15 Now, the third point, the
16 economic consequences of earlier as opposed to later
17 development also affect what it is no secret is perhaps
18 the first recommendation you will hear from the native
19 groups that there should be no development of a gas
20 pipeline prior to the settlement of the issue of native
21 lands and land claims. Now, Mr. Helliwell suggests
22 that there may be benefits as I read him, to later
23 rather than earlier developments that would accrue
24 directly to native peoples if his economic rents
25 theory were accepted and were implemented.

26 Now, that is something sir
27 which I suggest you must consider or you may be faced
28 with the problem of whether or not to make a recommenda-
29 tion to the Government that there should or should
30 not be a land claims settlement prior to the construction

1 of this pipeline because it is evidence that goes to
2 that issue. Is it a greater benefit to build right
3 away for the north because there are people in the
4 north who are saying to you, "Build it now because we've
5 come here to do business" or "Build it now because
6 we need the jobs". Or is it a greater benefit in the
7 long run to the people who will stay here to wait so
8 there will be greater economic rents which could be
9 used directly by people if they had political control
10 over the funds generated by this project.

11 These are the issues that
12 I suggest you will have to come to grips with sir.
13 I suggest that from my reading of Mr. Helliwell's
14 evidence, it has been called or is to be called by
15 the Brotherhood for the purpose of helping you with
16 certain economic expertise to arrive at whether or not
17 you can make the recommendations that we will be putting
18 to you.

19 THE COMMISSIONER: All right.
20 Let me put this to you Mr. Bayly. Your clients, the
21 Inuit Tapirisat, have put forward a proposal to the
22 Federal Government under which the Inuit people would
23 derive 3% -- a 3% royalty from the exploitation of oil
24 and gas in the Mackenzie Delta. Now, presumably that
25 royalty would be shared among Inuit people throughout
26 the Northwest Territories. I --

27 MR. BAYLY: That's as I
28 understand it sir although we will be leading evidence
29 on that.

30 THE COMMISSIONER: Fine. I'm

1 just trying to see where we are at here. Now, your
2 point can be put simply it seems to me, if the govern-
3 ment accedes to the wishes of Arctic Gas and its
4 sponsors and says, "We need this gas now. We'll build
5 a pipeline now. " And that occurs before any
6 settlement is reached with the Inuit people, then
7 clearly they are prejudiced in the sense that they
8 derive nothing now from the exploitation of those
9 resources that they claim they should derive some
10 benefit from. If the pipeline were postponed for a
11 period of years and the land claims proposal of the
12 Inuit were to be agreed upon, in one way or another,
13 then they would share.

14 Now, I understand that. Unless
15 I am slowly losing my mind, I understand the point.
16 But how does it -- and presumably I can make a
17 recommendation to the Cabinet about that and say to
18 them, "Well, you should not build a pipeline until
19 land claims have been settled", or, "You should go
20 ahead and build it because there are benefits to the
21 Inuit in terms of wages and jobs that shouldn't be
22 postponed." I'm thinking hypothetically.

23 MR. BAYLY: Yes sir.

24 THE COMMISSIONER: Now,
25 the prejudice to the Inuit in the sense that if you
26 assume the Federal Government is, when a settlement is
27 reached and they are committed to reaching a settlement
28 with the Inuit -- if, when a settlement is reached,
29 they agree that the Inuit are entitled to a royalty,
30 then clearly they will be prejudiced if the pipeline is

1 built now. I'm over-simplifying this thing just so
2 we can understand what we are talking about here.

3 Now, does it matter whether
4 they get a share of \$4.6 billion or of \$5.6 billion
5 in economic rent for a period of years hence? Surely
6 it is a question of principle. If that 3% is worth
7 anything at all, that's all we have to know.

8 MR. BAYLY: Well sir, we
9 have heard -- if I may interupt at this point before
10 I lose your thread -- we have heard from Mr. Watkins
11 among others that one of the problems is that govern-
12 ments don't often get economic rents that they might
13 demand from industry. Now, if a pipeline --

14 THE COMMISSIONER: Excuse me.
15 Excuse me. We are told that the economic rents that
16 accrue to government in the Northwest Territories are,
17 we are told -- somebody said -- they were the lowest
18 in the industrialised world and for all I know, they
19 may be. For all I know, they may not be. But --

20 MR. BAYLY: Right. Well,
21 let's assume for the sake of this point that they are
22 in the low range -- that they are low rents. Let's
23 assume that a pipeline goes ahead, that the National
24 Energy Board has said that the price of gas will be
25 fixed at a certain amount which provides for economic
26 rents of a certain amount. In the absence of any
27 control or say by native peoples in the north -- in
28 other words, in the absence of a land claims settlement,
29 that may be the rate that we're fixed with.

30 Now, if it's 3% of the lowest

1 amount in the industrialized world, that may be the
2 prejudice. It may not be enough to run the alternate
3 developments that Mr. Puxley and Mr. Watkins spoke
4 about. It may be a prejudice to the negotiations
5 entered into between the Federal Government and the
6 native peoples on this basis that they -- the Federal
7 Government -- may say the pipeline has been built.
8 It has not only cost the gas companies a certain amount
9 of money, but we have had to spend a lot of money
10 and therefore, you don't get any of the past economic
11 rents because it has already cost us "X" billion
12 dollars for the various infrastructures in the settle-
13 ments, the social welfare institutions, the hospitals,
14 or whatever -- the schools.

15 The native people have been
16 saying to you sir that maybe the native people should
17 run these things; should decide how that money is to
18 be distributed. Mr. Helliwell suggests in his evidence
19 that it may even be in the national as well as the
20 regional interest to wait on some of these things.
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1 THE COMMISSIONER: Oh yes, I
 2 understand.

3 MR. BAYLY: I'm sure that
 4 Mr. Hollingworth will disagree with that, and perhaps
 5 Mr. Steeves too, but nonetheless we have heard from
 6 the other side this pipeline is in the national
 7 interest, it should be built soon. Mr. Horte and
 8 others have told us that. It's of great urgency.
 9 We're short of gas. You've heard that in Winnipeg,
 10 you've heard it all over the country. There may be
 11 another point of view to this, that should be aired
 12 before you, sir.

13 THE COMMISSIONER: Well, the
 14 native people have said that industrial development
 15 in the north in the past has not provided them with
 16 jobs and hasn't provided them with any benefits. Pine
 17 Point is said to be an example.

18 At one end of the scale, it
 19 may be the oil and gas development in the Mackenzie
 20 Delta offers an indication of the possibility of native
 21 people being employed on these developments. I under-
 22 stand their argument that they've gotten no jobs and
 23 nothing at all out of practically every development
 24 that's occurred here. I understand that, and they have
 25 now said, "We want to get something out of this,"
 26 and your clients have come forward with a comprehensive
 27 proposal to get something out of it. But you're now
 28 asking me to figure out how much they would get with
 29 an immediate development of extraction of those
 30 resources in the delta, and what they would get five

1 or ten years from now, and if I go into that, then I
2 have to consider, "Well, suppose they found all kinds
3 of oil and gas under the Beaufort Sea," I have to
4 consider all kinds of possibilities that will take me
5 pretty far afield.

6 MR. BAYLY: I'm not suggesting,
7 sir, that you can say, "It should wait because they
8 will get 3% of one more billion dollars in five years."
9 I don't think you can say that. I don't think we are
10 even asking for that kind of consideration. What I am
11 suggesting, sir, is that this evidence may show that
12 there is an alternative, that by waiting not only is the
13 national interest not compromised, but also that a
14 system can be set up for deriving economic rents from
15 oil and gas, whether they may be greater in five years
16 or not.

17 THE COMMISSIONER: Well now,
18 look, let me just ask you to consider something that
19 has nothing to do with Mr. Helliwell but has occurred to
20 me while you were on your feet.

21 Everybody seems to agree that
22 industrial development in the Northwest Territories
23 has not benefitted the native people in the past.
24 I'm putting it very boldly but that's what everyone
25 seems to say. Now, your clients, the Inuit Tapirisat,
26 have said, "Well, one way we're going to benefit is
27 if the government agrees with our land claim, is that
28 we're going to get a 3% royalty on the gas that's
29 extracted from the Mackenzie Delta."

30 Now -- and I'm not asking you

1 to answer this now but I'm asking you to think about it
2 -- does that mean that your clients say that they
3 should appropriate whatever -- that they should receive
4 whatever the appropriate share for native people in the
5 north of any race should be of Mackenzie Delta gas?
6 I'm not putting this very well. Are they really saying
7 that they are entitled to 100% of whatever the approp-
8 riate share for native peoples is of the revenue from
9 Mackenzie Delta gas?

10 MR. BAYLY: I don't know that,
11 sir.

12 THE COMMISSIONER: I'm not asking
13 you even to comment on it, but you might think about
14 it and ask your clients to think about it.

15 MR. BAYLY: Certainly we will be
16 calling a panel that will deal with that and one of
17 the difficulties is that that particular piece of
18 evidence has not yet been prepared.

19 THE COMMISSIONER: Well --

20 MR. BAYLY: We'll certainly
21 address that particular question that you've asked in
22 the evidence if there is an answer to it at this
23 point.

24 THE COMMISSIONER: Yes, and
25 let me just go on a little bit, because your clients
26 might want to think about what I'm saying. Maybe
27 they haven't considered this and I wouldn't blame them
28 if they hadn't, but are they really saying that they
29 are the only native people in the north entitled to
30 share in the revenue of Mackenzie Delta gas

1 because it happens to fall within the boundary of
2 the territory that they say they have traditionally
3 used and occupied? Are the Dene then not entitled
4 to any share in the revenue from gas in the delta,
5 that is are the Dene not entitled as native people
6 with a land claim based on traditional use and occupa-
7 tion to any share of Mackenzie Delta gas? I just say
8 "Mackenzie Delta gas" because that's what we're talking
9 about here. Or do they say, "Well, we get our 3% and
10 sure, the Dene are entitled to another 3% if they
11 can get it," which means there would be a 6% native
12 royalty. I'm just thinking out loud and you might want
13 to think about some of these questions.

14 MR. BAYLY: I don't want to just
15 leave it at that completely, and all I can say in a
16 general way is that when the presentation was made to
17 the Federal Government it was made on the basis that
18 the Inuit were inviting other Canadians, whether they
19 were Dene or anybody, to share in the north. It wasn't
20 the other way around, saying, "We want this and every-
21 body else must keep out."

22 I don't know what the parti-
23 culars of that are and they aren't -- I can't find them
24 on the face of the proposal. I know there are a consider-
25 able number of studies that have been done and
26 recommendations have come about because of reports that
27 are behind the proposal. As I say, I will have a
28 panel to address that, but that particular detail is
29 not found in the Nunavut proposal in the form that it
30 was presented to the government. That may be something

that they are negotiating. I don't know that.

THE COMMISSIONER: All right, well let me put this to you, just to think about, and then to Mr. Bell and his clients as well. If you extract those resources from the Mackenzie Delta, and you build a pipeline, this Inquiry has proceeded on the footing from the very beginning at the urging of all the native organizations, including the I.T.C., we have proceeded on the footing that you can't fragment this whole thing. This is one project that the industry as a whole is undertaking to extract the oil and gas resources in the Mackenzie Delta and Beaufort Sea, not to speak of Prudhoe Bay.

So the social and economic impact will fall upon people who live along the whole of the route of the pipeline and if -- and the native people in every village have urged this upon me, they have said, "We are the ^{only} people who live here throughout our lives. Most of the people in Yellowknife, white people who live in Yellowknife are only here for six months, a year, two years, and then they're gone. Most of the people with the industry are here for six months, a year, two years, and then they're gone; but we bear the impact and that impact will be felt by the Inuit in the north and by the Dene and Metis people along the route in the valley."

So is the native share of that resource to go to the particular native group that happens to have used and occupied the particular area where the resource is found, or is the resource -- the

1 native share of the resource to be treated as something
2 that ought to go to all native northerners/ some per
3 capita basis. That's a question that your clients,
4 maybe they've thought about it and maybe/I studied
5 the Nunavut proposal closely I'd see an answer to it.
6 But they might think about it.

7 MR. BAYLY: Sir , if I might
8 just direct you to the evidence , I believe, of Dr.
9 Usher when he was here, I believe his last appearance.
10 He talked about the view of the Inuit that this project
11 is the threshold project for a large number of develop-
12 ments in the Western Arctic. As seen in that light,
13 we aren't just talking about the resources in the
14 Mackenzie Delta; we're talking about the possibility of
15 developing minerals in the Mackenzie Mountains, of
16 exploring the sedimentary basin which we were told
17 in Phase 1 of the Inquiry goes up the Mackenzie Valley
18 as far as Norman Wells, up the Peel Plain, which is
19 promising but hasn't produced anything, of intensive
20 exploration for oil and gas and minerals in this whole
21 area. The principles apply to all these kinds of
22 projects. I can't answer your specific question, but
23 it is because of that whole development that the concern
24 is expressed that the land claims be settled before
25 this first one, the threshold development, commences.
26
27
28
29
30

1 THE COMMISSIONER: Well, just
2 I spent three days getting here and I don't seem to
3 be coming to grips with this thing. But, you understand
4 what I am driving at here, don't you?

5 MR. BAYLY: I understand sir
6 that you are saying that there may be a problem that that
7 native group which claims a certain area may say or may
8 not say that they should have exclusive rights to the
9 economic rents for the resources that are found in that
10 geographical area.

11 THE COMMISSIONER: Yes.

12 MR. BAYLY: That is the
13 problem you would like to have addressed.

14 THE COMMISSIONER: Yes, and the
15 Dene might very well say, "Look, we will wind up bearing
16 the brunt of the social and economic impact of a pipeline
17 built to extract those resources and the Inuit will
18 appropriate 100% of the royalty that should go to the
19 natives." That's really the --

20 MR. BAYLY: I appreciate that
21 problem without having an immediate answer for you.
22 Mr. Bell probably is in the same position.

23 THE COMMISSIONER: Well, I am
24 sure you don't have an immediate answer.

25 Well, suppose we adjourn this
26 argument about Dr. Helliwell until 9:30 A.M. and then
27 we'll see what Mr. Goudge has to say about it.

28 That may mean that Dr.
29 Helliwell will turn up here. I guess he has to get a
30 plane in Vancouver tomorrow morning, but it's important

12 enough to reflect on overnight. Yes?

MR. HOLLINGWORTH: Sir, you
3 said, "adjourn to 9:30" but I believe that's the
4 precise minute that the plane that Mr. Goudge will be
5 on touches down the runway. Maybe that's a little
6 unrealistic.

7 THE COMMISSIONER: Yes. Ten
8 o'clock.

9 (PROCEEDINGS ADJOURNED TO JUNE 30, 1976)
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MACKENZIE VALLEY PIPELINE INQUIRY

Government
Publications

IN THE MATTER OF APPLICATIONS BY EACH OF
(a) CANADIAN ARCTIC GAS PIPELINE LIMITED FOR A
RIGHT-OF-WAY THAT MIGHT BE GRANTED ACROSS
CROWN LANDS WITHIN THE YUKON TERRITORY AND
THE NORTHWEST TERRITORIES, and
(b) FOOTHILLS PIPE LINES LTD. FOR A RIGHT-OF-WAY
THAT MIGHT BE GRANTED ACROSS CROWN LANDS
WITHIN THE NORTHWEST TERRITORIES
FOR THE PURPOSE OF A PROPOSED MACKENZIE VALLEY PIPELINE

and

IN THE MATTER OF THE SOCIAL, ENVIRONMENTAL AND
ECONOMIC IMPACT REGIONALLY OF THE CONSTRUCTION,
OPERATION AND SUBSEQUENT ABANDONMENT OF THE ABOVE
PROPOSED PIPELINE

(Before the Honourable Mr. Justice Berger, Commissioner)

Yellowknife, N.W.T.

June 30, 1976.

PROCEEDINGS AT INQUIRY

Volume 155

CANADIAN ARCTIC
PIPELINE LTD.

PL-5176

REPORT

publication

APPEARANCES:

Mr. Ian G. Scott, Q.C.,
Mr. Stephen T. Goudge,
Mr. Alick Ryder and
Mr. Ian Roland for Mackenzie Valley Pipeline
Inquiry;

Mr. Pierre Genest, Q.C.,
Mr. Jack Marshall,
Mr. Darryl Carter and
Mr. J.T. Steeves for Canadian Arctic Gas Pipeline
Limited.

Mr. Reginald Gibbs, Q.C.,
Mr. Alan Hollingworth and
Mr. John W. Lutes for Foothills Pipe Lines Ltd.;

Mr. Russell Anthony,
Prof. Alastair Lucas and
Mr. Garth Evans for Canadian Arctic Resources
Committee;

Mr. Glen W. Bell and
Mr. Gerry Sutton for Northwest Territories
Indian Brotherhood, and
Metis Association of the
Northwest Territories;

Mr. John Bayly and
Miss Leslie Lane for Inuit Tapirisat of Canada,
and The Committee for
Original Peoples Entitle-
ment;

Mr. Ron Veale and
Mr. Allen Lueck for The Council for the Yukon
Indians;

Mr. Carson Templeton for Environment Protection
Board;

Mr. David H. Searle, Q.C. for Northwest Territories
Chamber of Commerce

Mr. Murray Sigler for The Association of Munici-
palities;

Mr. John Ballem, Q.C. for Producer Companies;

Mrs. Joanne MacQuarrie, for Mental Health Association
of the Northwest Territor-
ies.

CANADIAN ARCTIC
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I N D E XPage

WITNESSES FOR INDIAN BROTHERHOOD & METIS ASSOCIATION:

Peter H.L. PUXLEY

Melville H. WATKINS

- Cross-Examination by Mr. Bayly 23668
- Cross-Examination by Mr. Hollingworth 23673, 23712
- Cross-Examination by Mr. Steeves 23705, 23712
- Cross-Examination by Mr. Roland 23714
- Cross-Examination by Mrs. MacQuarrie 23720

Miss Anne FORREST

- In Chief 23761
- Cross-Examination by Mrs. MacQuarrie 23792
- Cross-Examination by Mr. Hollingworth 23794
- Cross-Examination by Mr. Steeves 23816
- Cross-Examination by Mr. Goudge 23826

EXHIBITS:

- 629 Qualifications & Evidence of Miss A. Forrest 23791

Yellowknife, N.W.T.

June 30, 1976

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: Gentlemen,
can we come to order? Mr. Goudge, are you ready
to make any submissions on the question whether Dr.
Helliwell's evidence is material?

MR. GOUDGE: I would prefer,
sir, if it suits you, to leave my submissions perhaps
until right after lunch when I'd be in a position to
make representations that might be of more use than any
I could make right now. I spoke to Mr. Sigler as well,
and he is in the same position I am. He wasn't here
yesterday either, and would like to make submissions
on the motion, and I think I express his view correctly
when I say that he, like I, would prefer to make
submissions right after lunch on that issue.

MR. SIGLER: That's correct,
sir.

THE COMMISSIONER: Mr. Bell,
can we proceed either with the cross-examination of
Mr. Watkins and Mr. Puxley, or with another witness?

MR. BELL: Could I just add
one thing to what Mr. Goudge has said, sir? There might
be a slight problem if we waited until after lunch to
hear the rest of the submissions on the question, because
if we don't let Dr. Helliwell know that he's wanted by
11:30 our time, then he's not going to make it today
to this Inquiry. In other words, he won't -- he's
not going to get on the plane on the assumption that

he's going to be heard, and then with the risk that he won't be. So that's --

THE COMMISSIONER: Well, let's

--

MR. BELL: -- what we're faced with.

MR. HOLLINGWORTH: Mr. Goudge knew several days ago that I intended to bring this motion. It's not a matter of surprise to him.

THE COMMISSIONER: Well, Mr. Sigler isn't prepared to argue either and he's entitled to a crack at it, so -- well, if he doesn't get on the plane today and we require him, we'll ask him to get on the plane tomorrow then, or as the case may be.

MR. BELL: Well, I think we're ready to proceed with the cross-examination of Mr. Watkins and Mr. Puxley, sir.

THE COMMISSIONER: When you say 11:30, do you mean Vancouver time?

MR. BELL: No, I mean our time, whatever it is.

THE COMMISSIONER: Are you first, Mr. Steeves? Mr. Hollingworth? I don't know what the order is.

MR. HOLLINGWORTH: As I recall, Mr. Sigler, Mr. Bayly, Mr. Steeves or myself, in one form or another, and then Commission counsel.

MR. GOUDGE: Yes, I would think, sir, in the normal course that the pipeline companies would go second-last and we'd lead off with

Puxley & Watkins
Cross-Exam by Bayly

1 either Mr. Bell or Mr. Bayly or Mr. Sigler.

2 MR. SIGLER: I have no questions
3 of the panel, sir.

4 MR. BAYLY: I just have a
5 couple of questions, Mr. Commissioner.

6
7 PETER H.L. PUXLEY,

8 MELVILLE H. WATKINS, resumed:

9 CROSS-EXAMINATION BY MR. BAYLY:

10 Q Mr. Watkins, yesterday
11 when we were talking about the problems of economic
12 rents for resources that are in the territory occupied
13 by one group of people. We addressed the question of
14 how other people could share in them, and I gather that
15 although this was brought up in a motion, it's a matter
16 which you've given some thought to and perhaps could
17 comment on.

18 WITNESS WATKINS: Well, are you
19 referring to the point about the division of the
20 royalties or possible division of rents through
21 royalties between Inuit and Dene, is that --

22 Q Yes, that's the question
23 that the Commissioner raised at the end of the day
24 yesterday.

25 A Well, with all due
26 respect to the Commissioner, I think it's a very pre-
27 mature question; both native groups are either negotiat-
28 ing or trying to negotiate or preparing for negotiations
29 of a land settlement separately. We know something of
the nature of the Inuit claim in a detailed sense. We

Puxley & Watkins
Cross-Exam by Bayly

1 would, I think, presume from what has been said by
2 the Dene, that they would expect to make a claim for
3 at least some share of rents through royalties. I
4 would -- I guess my only thought would be that if we
5 look at the kind of rent figures that Mr. Jelliss'
6 research shows us for mining and for our present (albeit
7 very small-scale) gas developments in the Mackenzie
8 District, and if we look at Dr. Helliwell's estimates
9 for rents from the oil and gas industry, and even if
10 we were to think that the latter were out by some
11 considerable order of magnitude -- and I personally
12 don't think they are, but he's talking about something
13 between four and \$5 billion -- then I'd have thought
14 quite frankly that there's more than enough there -- I
15 don't mean just to be facetious when I say that, but
16 there's more than enough there for both the Inuit and
17 the Dene to receive quite significant royalties. But
18 those level of royalties will clearly emerge directly
19 out of a bargaining process with the government.

20 Q And I take it as well,
21 Mr. Watkins, that you would see economic rents being
22 generated by the very fact that Alaskan gas would be
23 transported through the country, which might not
24 originate in the territory occupied by either Dene or
25 Inuit in Canada.

26 A Well, that's certainly
27 one of the thrusts of Dr. Helliwell's argument, is his
28 rent breakdown into two portions, and something like
29 half of his estimate of rents results from the cost
30 differential or cost saving of using the Mackenzie

Puxley & Watkins
CrossExam by Bayly

1 corridor rather than the El Paso route, and the
2 orthodox theory of rents, if you will, suggests that
3 you would so price the transport of gas down the
4 Mackenzie corridor as to make it just marginally more
5 attractive than the El Paso route, and that gives
6 you whatever the figure is in Helliwell's estimates,
7 something in the nature of \$2 billion. That results
8 simply from the fact that the pipeline is crossing in
9 this case Inuit land and Dene land. That's partly
10 relevant to the previous point.

11 If all the gas were produced
12 in INuit land, the Inuit would, of course, still ob-
13 viously recognize that the pipeline itself would in
14 some part pass through Dene land. So there would have
15 to be a sharing of surpluses or rents. Each would
16 have a valid claim.

Puxley, Watkins
Cross-Exam by Bayly

1 Q Coming to another point
2 that you -- that your evidence in a sense revolves
3 around, your feeling is that the approach to the
4 extraction of resources from the Northwest Territories,
5 now oil and gas, is substantially the same as the
6 approach taken to extraction of fur resources and
7 perhaps earlier timber resources and perhaps earlier
8 than that fish resources, to go to another part of
9 the world, or in this case perhaps another part of
10 the country.

11 A Well, there are many
12 similarities, but the one that I would emphasize is
13 that the exploitation of these resources, that are
14 non-renewable, or in a case like timber were treated
15 as if they were non-renewable and were mined out in
16 many parts of the country, yielded these very signifi-
17 cant surpluses over and above all costs of production
18 to the entrepreneurs or operators that were involved.

19 The key point for the local region is whether
20 these surpluses remain in the region or do not remain
21 in the region. Typically the way in which staple
22 production has taken place in Canada, is that the
23 surpluses have not stayed in the region and therefore
24 after the initial burst of activity around the produc-
25 tion of the staple, there is a tendency for that
26 region to sink back into a kind of stage of under-
27 development. Many economists would argue, for example,
28 that's true of the Atlantic provinces as a whole, how
29 is it that these provinces are today relatively poor
30 even though prior to Confederation they were the most

Puxley, Watkins
Cross-Exam by Bayly

prosperous of the provinces, or then, colonies.

I would say the most widely held view to explain that phenomenon would be the fact -- well, symbolized by the simple fact that the head office of the Bank of Nova Scotia is now in Toronto, which tells you a good deal about where the profits from Nova Scotia flowed, and it's important therefore that the regions, the local economy, that you structure things in such a way that the benefits go to the local economy and it seems fairly clear that only the local people, by exercising their political rights and their political power can do that, and in the north that clearly means the permanent residents of the north who are the Inuit and the Dene.

Q And I take it that this was a -- this problem you referred to in the Atlantic regions, was again one that was discussed by Innis, to whom you refer in his book the "Cod Fishery"?

A Yes, yes, but there's been a good deal of further work done on that, since that time, which would essentially support this kind of argument.

MR. BAYLY:

Those are all the questions

I have, thank you.

MR. GOUDGE: I wonder sir, if this might be an appropriate time to break, it's 10:25 and --

THE COMMISSIONER: Yes. I have to take a half hour break now, but the rest of you might have coffee and counsel might consider some

Puxley & Watkins

1 of the problems of scheduling during the balance of
2 the four week schedule that we're currently on, and
3 we'll start again in about a half an hour.

4 (PROCEEDINGS ADJOURNED AT 10:25 A.M.)
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Puxley & Watkins
Cross-Exam by Hollingworth

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: Well

ladies and gentlemen, we'll resume again. My apologies. I was asked to participate in a special Canada Day broadcast with Mr. John G. Diefenbaker. You'll appreciate that it was an offer I couldn't refuse, so forgive me.

Well, we'll carry on. Are you next Mr. Hollingworth or Mr. Steeves?

MR. HOLLINGWORTH: Did Mr. Bayly finish?

MR. BAYLY: Yes, I did sir.

MR. GOUDGE: Mr. Hollingworth will be next sir.

CROSS-EXAMINATION BY MR. HOLLINGWORTH:

Q Well, Mr. Watkins I'd ask you at the outset to restrict yourself to answers to the questions I put to you, and maybe you could leave out the passing references to Mr. Helliwell's evidence until we have at least thrashed that one out.

I just have a few questions for you Mr. Watkins and perhaps I could refer you to your text. On the first page in your opening remarks, you stated that "they", referring to Arctic Gas and Foothills:

"...point to the extent of present unemployment among native people as evidence of the need for this opportunity, though they presumably over-estimate this to the same extent that they under-

Fuxley & Watkins
Cross-Exam by Hollingworth

estimate the number of active hunters, fishers and trappers."

I take it from that you are saying that there is an inverse proportion here by the amount that you claim the applicants under-estimate the degree of fishing, hunting and trapping, they are therefore over-stating the amount of unemployment.

WITNESS WATKINS: Yes, it seems to me that's very probable; that if you take the position that Gemini North does and give this incredibly low figure for hunters, fishers and trappers and these people are in fact not involved and not counted as involved in the wage economy proper, then statistically they'll simply end up being counted as unemployed.

But if you were to take rather the figures that the Indian Brotherhood would have presented on a number of full-time hunters, trappers and fishers which is the figure I would take, then there would be many fewer people left to be counted as unemployed. So that what I am really, I think, saying is that there is I am sure a good deal of unemployment and under-employment in Indian communities but I am sure it is very much less than is implied by Gemini North and by the applicants because they do in fact, in my view, underestimate the number of people who are engaged full-time in the so-called "traditional" economy.

Q Well, would you think that Canada Manpower over-states the amount of unemployment in the north?

Puxley & Watkins
Cross-Exam by Hollingworth

A I haven't actually looked at the Canadian Manpower statistics, but I would very much suspect that they do. As far as I know in southern Canada for purposes of establishing the unemployment figure, Indians living on a reserve are not counted at all. They are just left out completely from the analysis.

Q Well yes, but apart from Hay River there are no reserves in the Northwest Territories.

A No, what I am suggesting is -- I grant you that -- what I am suggesting is that the normal measures of employment and unemployment have great difficulty dealing with a culture -- they are actually very culture-bound concepts. They are very difficult to apply, I would have thought, to the Dene people or to the Inuit people where it is very difficult I would think for a Manpower official to recognize that a person lives full-time as a hunter, because he doesn't appear to be in the wage economy in the sense that he wants to count him in the wage economy.

Q Well, are the high figures -- relatively high figures of unemployment -- given by Canada Manpower based on the number of people drawing unemployment benefits?

A I don't -- I don't pretend to have expertise on the exact method in which these are calculated. But it is my understanding that the unemployment figures are based on a sampling technique

Puxley & Watkins
Cross-Exam by Hollingworth

1 done by Statistics Canada, completely independent of
2 the data kept by Canada Manpower. In other words, there
3 is no -- in fact I am quite sure of that now that I
4 think about it. There is no relationship at all
5 between the number of people drawing unemployment
6 insurance and the number of people said to be unemployed,
7 if for no other reason than that many people are
8 unemployed and not eligible for unemployment insurance.

9 Q All right. Well, if I
10 could go back to your figures for fishing, hunting and
11 trapping, I take it that you rely upon and accept the
12 figures presented by Miss Nahanni and her panel
13 earlier in the Inquiry?

14 A Yes.

15 Q And you are a professional
16 economist. Now you are prepared to accept her
17 definitions or the definitions given by Miss Nahanni
18 and her panel as to what a full-time trapper is and
19 a full-time hunter is?

20 A Yes, if I am an economist
21 trying to look at unemployment or employment or gainful
22 activity, I would accept the Dene definition of
23 gainful activity rather than impose an outside
24 definition of gainful activity. So, if the Dene
25 say -- if you interview them and they say "I am a
26 hunter and trapper", then it seems to me that you are
27 imposing your own definition unless you accept that.

28 Q Well, it was Miss
29 Nahanni's evidence, as I recall, that someone who
30 hunted and trapped for as little as one week in a year

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 Cross-Exam by Hollingworth

1 would be considered a full-time hunter and trapper for
 2 the purposes of her calculations. Now, do you accept
 3 that as professional economist?

4 A Well I am not sure that
 5 she phrased it quite that way. You'd have to read out
 6 the actual quote to convince me that she in fact said
 7 that.

8 Q Well all right. Perhaps--

9 A Because I think again
 10 one of our problems is how do you count -- what do
 11 your mean by "full-time". Again, is it your definition
 12 or the Dene's definition that you wish to use? Obvious-
 13 ly no one, to our knowledge hunts 52 weeks of the
 14 year.

15 Q No sir, but there is
 16 quite a difference between engaging in that activity
 17 52 weeks of a year or engaging in it one week out of
 18 the year. Now -- I'm asking. Just a moment Mr. Watkins.
 19 I am asking you for the sake of argument, presume that
 20 I am correct in my assertion that Miss Nahanni stated
 21 that someone who hunted or trapped for only one week
 22 of the year was considered a full-time hunter or
 23 trapper.

24 MR. BELL: Well, if we're
 25 going to --

26 MR. HOLLINGWORTH: Well just
 27 a moment. Just a moment. May I finish my question?
 28 I will find the reference to that over the lunch hour.
 29 I didn't think it was a matter of contention, and I
 30 will give you that reference.

Puxley & Watkins
Cross-Exam by Hollingworth

But I suggest to you --

A Assume --

Q -- just a moment, Mr.

Watkins. Assume for the moment it's correct. Do you as a professional economist regard that as a proper definition of a full-time hunter and trapper?

A Tell me how you define "full-time".

Q How do you define "full-time", that's my question?

A Well, what I'm saying, I define it largely on the basis of what the person themselves says is their perception of their activity. I presume Miss Nahanni is not talking about somebody who necessarily only hunts and traps for one week of the year, but only engages full-time perhaps in it one week of the year but does it at other times as well. I think Mr. Puxley, who's been involved as well in the land use research, could help us in this. The major point I'm trying to make is simply that I see the difference between the Gemini North figures and the Brotherhood figures as resulting from two facts: (1) the general incompetence of the Gemini North study. I don't believe much, if anything, that's in it. But I believe that even if it was competently done you would get two very different figures for reasons that every economist who has ever worked on these problems in underdeveloped areas understands, which is are you using the definition of an advanced industrial society or are you using in fact the definition of people

Puxley & Watkins
Cross-Exam by Hollingworth

1 themselves who reside in the underdeveloped area?

2 You will get two completely different answers. Anybody
3 who believes that they can split the difference and
4 say one is better than the other is simply wrong.

5 Q Well, I would --

6 A They're culture-bound
7 answers.

8 Q I was interested in --

9 THE COMMISSIONER: Excuse me,
10 Mr. Hollingworth. Could I just ask you both to con-
11 sider the evidence of someone else for a moment? I
12 thought that you were asking Mr. Watkins about his
13 -- about the value of country food. Maybe you've
14 moved on to the question about how many natives are
15 in fact employed in whatever sense you want to use.

16 MR. HOLLINGWORTH: No sir, I
17 wasn't doing either of those things. I was asking him
18 if there was a correlation between the unemployment
19 that's stated and the applicant's estimate of the number
20 of active hunters, fishers and trappers, and then I
21 asked him as a professional economist whether he was
22 prepared to accept the definition of a full-time
23 hunter and trapper as set out in the Brotherhood study
24 which was presented to us by Miss Nahanni and her
25 panel. He has stated that for cultural reasons,
26 really he's not prepared to even answer.

27 A No, I explained to you
28 why you can't give an answer, either is what I'm trying
29 to get at here, there's a very substantial point I
30 think I'm trying to make here which is the view that

Puxley & Watkins
Cross-Exam by Hollingworth

1 there is one correct answer is wrong, it has to be
2 wrong. You're dealing with what an economist calls
3 the index^{number} problem, and it's a question of which set
4 of weights you use -- the Dene set of weights or the
5 Euro-Canadian set of weights. Now I'm saying that
6 since we're here and talking about this on land that
7 in my view is Dene land, we should accept the Dene
8 definitions. You're rejecting that, which I understand.

9 Q I didn't say I was reject-
10 ing it, sir.

11 WITNESS PUXLEY: Could I make
12 a stab at your question?

13 MR. HOLLINGWORTH: I'm sorry,
14 I can't hear you, sir.

15 THE COMMISSIONER: Go ahead.

16 A I think, if I could
17 put Miss Nahanni's comment, if indeed she did make it,
18 in context, I think what she was making very -- the
19 point she was making goes right to the heart of your
20 own question, which is that people have a very clear
21 idea of the impact of colonial development over the
22 past few years and many of them have been prevented
23 from undertaking activities which they would normally
24 undertake without such imposition, and none of those
25 people are going to suggest that they are not in fact
26 hunters and trappers because in the last couple of years
27 it's been very difficult for them to viably pursue the
28 life of their choice.

29 Now to seize on the fact that
a man has not been able to pursue that life on the land

Puxley & Watkins
Cross-Exam by Hollingworth

1 let's say in 1975, and suggests that he is available for
2 employment in the pipeline was the very point that she
3 was addressing. She was saying that that would be quite
4 incorrect. That man is saying he is still a hunter and
5 trapper and would pursue that way of life, other things
6 being equal; and in a colonial situation they are not
7 equal.

8 MR. HOLLINGWORTH: Yes, that's
9 fair enough, sir, but another of my points is this,
10 and that's that earlier when this question came up
11 there was obviously a wide disparity between the
12 Brotherhood figures and the applicant's figures as to
13 the number of active hunters and trappers, and part of
14 that may be that what constitutes the definition of
15 a full-time hunter and trapper is different as between
16 the Brotherhood study and between the applicant's
17 figures which were gained from Gemini North.

18 A I think that's what
19 Mr. Watkins is saying as well.

20 Q All right.

21 THE COMMISSIONER: Could I
22 ask you -- let me just ask you to consider for a moment
23 the evidence of Mr. Rushforth. You see, we've had
24 this dispute now between the Brotherhood on the one
25 hand and the two pipeline companies on the other hand.
26 The pipeline companies say that there are only 75
27 people, perhaps 100, engaged full-time in gaining
28 a living from the bush. Miss Nahanni for the Brother-
29 hood said there were at least 1,000, and I think you
30 could argue about how do you define a full-time

Puxley & Watkins
Cross-Exam by Hollingworth

1 hunter and trapper for six months, if you wanted to,
2 and there are inherent difficulties in coming to grips
3 with that question of definition. But there is another
4 way of approaching this, another way of approaching
5 this. This is going through my mind and I'm taking
6 the time to let you know so that you can in due course
7 tell me whether you submit that I'm on the right track
8 or the wrong track.

9
10 Mr. Rushforth said that in
11 Fort Franklin, a village of 400 people, that something
12 like 40 to 50% of the value of the food that they used
13 was obtained from the bush, was country food. He said
14 that if you wanted to quantify that in terms of the
15 equivalent cost of meat from the Hudson's Bay, it was
16 something like 200 to \$250,000 worth of food in a year,
17 meat and fish essentially.

18 Now, that is one way that
19 enables us to understand the significance of country
20 food to people in a village like Fort Franklin, and
21 enables us, so far as you can measure these things
22 (and they are very, very difficult to measure) that
23 enables us to measure the extent of their reliance
24 even today upon the land and the resources of the bush.
25 I sat and listened to the argument between the two
26 companies and the Brotherhood and their witnesses about
27 how many people were engaged full-time in trapping, and
28 it seemed to me that if you looked at Mr. Rushforth's
29 evidence you had something to measure that was rather
30 more concrete than this dispute that anything you were
31 liable to come up with from this dispute between the

Puxley & Watkins
Cross-Exam by Hollingworth

1 companies and the Brotherhood over the definition of
2 who is a trapper.

3 At any rate, that's the
4 thought that is going through my head, and I'm not
5 asking anyone to say anything about it now, but that's
6 an approach that it seemed to me was liable to lead
7 to quantifiable results. This is one of the problems.
8 Mr. Watkins, I think, has implied that we're trying
9 to reduce everything to statistical terms. That's how
10 we understand economics. Give us a graph. Give us a
11 chart. Add up the figures.

12 Mr. Rushforth, it seemed
13 to me, made a valiant attempt to do just that, an
14 attempt rather more successful than perhaps either the
15 companies or the Brotherhood made in trying to tell us
16 how many people were engaged full-time in trapping.

17 At any rate, carry on, sir.
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Puxley, Watkins
Cross-Exam by Hollingworth

1 MR. HOLLINGWORTH: Am I to
2 assume from that sir, that you regard us as essentially
3 wasting our time --

4 THE COMMISSIONER: No.

5 MR. HOLLINGWORTH: -- engaging
6 in the conversation we are?

7 THE COMMISSIONER: No, but
8 I don't think that Mr. Watkins is liable to concede
9 that he's wrong.

10 MR. HOLLINGWORTH: I'd reached
11 the same conclusions.

12 WITNESS WATKINS: Could I
13 make just one further point about Miss Nahanni's research,
14 and its intent, and this is not to deny that others
15 can look at that data and try and pose different
16 questions, but the intent of that research was not,
17 in fact, to determine the number of people who -- using
18 someone else's definition, are engaged in full-time
19 hunting, fishing and trapping. The point of that
20 research, as I understand it, as funded by Indian Affairs,
21 was for research on the land claim. Its intent was to
22 show the use and occupancy of land, thereby establishing,
23 if I understand the legal points at issue, that the
24 Dene have possessory rights to the land. It's an attempt
25 to get at the question of use and occupancy since
26 time immemorial.

27 On the Commissioner's point,
28 Mr. Rushforth's evidence, which is very useful, was
29 in fact, commissioned by the Indian Brotherhood, exactly
30 to deal with the point of quantifying present land use,

Puxley, Watkins
Cross-Exam by Hollingworth

1 which Miss Nahanni's ^{/research} was not directed towards and I
2 would agree that Mr. Rushforth's evidence is therefore
3 the better way to answer the question.

4 THE COMMISSIONER: Let me
5 make it clear that's subject to cross-examination, he
6 hasn't been cross-examined yet. Mr. Aschsought to
7 deal with the same question at Fort Simpson and Wrigley,
8 you'll recollect, using Gemini North's figures. But
9 to our way of looking at these things, our seeking to
10 quantify these things, Mr. Rushforth came closer than
11 anyone else to putting it down in black and white,
12 that's all. He may be shown to be wrong.

13 MR. HOLLINGWORTH: Well
14 Mr. Watkins, let's move on to another point in any
15 event, and that's on page eight of your testimony.

16 You say that the applicant
17 acts on the assumption that the land is not Dene land
18 but Crown land. Now, I put it to you sir, is that not
19 an unreasonable assumption to make, given the title
20 that's on record at the land title's office at the
21 moment?

22 A Well, you'd
23 have to explain to me concretely what you mean by that
24 lattter phrase.

25 Q The lands that are present
26 claimed by the Dene are in the land title's office
27 of the Northwest Territories, registered as being in
28 the ownership of the Crown, at this moment, is that
29 not correct?

30 A I am not a lawyer, but it

Puxley, Watkins
Cross-Exam by Hollingworth

1 is my understanding that is not correct.

2 Q It's not correct? What
3 is your understanding?

4 A That a case is proceeding
5 to the courts, now to go before the Supreme Court
6 of Canada to establish exactly the point that you say
7 has already been established.

8 THE COMMISSIONER: Well, I'm
9 not interested in Mr. Watkins views on the law, he's
10 not a lawyer, he's not an expert witness on the state
11 of land titles in the Northwest Territories and he
12 -- if he expresses an opinion on the subject, quite
13 frankly it doesn't impress me one way or the other.

14 MR. HOLLINGWORTH: Fine sir,
15 now that you've said it, I'll move on.

16 Q All right, well after
17 that, Mr. Watkins, you say that if it is not Crown
18 land that it should be made so by a land settlement
19 that extinguishes aboriginal title. This is what you
20 say the applicants are stating?

21 A Yes.

22 Q Is that correct?

23 A That's my understanding
24 of what the applicants are stating there.

25 Q Now, could you please
26 give me references of where you understand Foothills
27 to be saying that?

28 A Well, I would have thought
29 -- and I'm not trying to turn this into another question,
30 but I don't know whether I can avoid doing it, I would

Puxley, Watkins
Cross-Exam by Hollingworth

1 have thought that such a statement is a reasonable
2 inference on my part, unless the contrary is stated.
3 That is, unless someone -- if Foothills to take this
4 particular case, is prepared to assert that they recog-
5 nize Dene title in the full sense of aboriginal title,
6 with the possibilities of conversion and so on and
7 would not proceed with any pipeline under any circum-
8 stances, until such title had been converted and
9 formalized, if they said that then I will strike such
10 a statement with respect to Foothills. But it is not
11 my understanding that such a statement has in fact
12 been made, at least on the record.

13 Q So it's your understanding
14 that because such a statement hasn't been made, then
15 Foothills is necessarily saying that aboriginal title
16 should be extinguished?

17 A I can only make that
18 inference, yes. It -- because if you wish to clear up
19 the ambiguity, it's very easy to clear it up by making
20 the contrary statement and perhaps even appearing in
21 the courts to argue that on behalf of the Brotherhood.

22 Q Well sir, that is not
23 a decision for me to make. So, we'll rest that one
24 for the moment.

25 At the bottom of page eight
26 sir, you say non-native labour is generally readily
27 available from the south and this is particularly so
28 now, given the extent of unemployment. Are you referring
29 to unemployment in the whole country?

30 A Yes, and the United States

Puxley, Watkins
Cross-Exam by Hollingworth

1 as well.

2 Q You certainly can't
3 be referring to it in the province of Alberta?

4 A Well, with all due
5 respect, Canada's much larger than Alberta.

6 Q Yes sir, but pipeline
7 construction expertise comes from Alberta, does it
8 not?

9 A Well, all right, I'm
10 not an expert on where you recruit your labour from.

11 Q Well, I suggest to you
12 it does.

Puxley, Watkins
Cross-Exam by Hollingworth

1 A I would have thought
2 -- yes. But there are certainly people, I would
3 have thought, in other parts of Canada who have skills
4 in this area. I am not --

5 Q But you are not an expert?

6 A Well, there is also
7 Texas.

8 Q Are you aware of the
9 unemployment rate in Texas?

10 A No, but I, you know, I --

11 Q Are you aware of the
12 unemployment rate in Oklahoma?

13 A Well are they --

14 Q Oklahoma?

15 A Are they sharply different
16 from the United States' average which is --

17 Q Don't ask me the
18 question Mr. Watkins. You are making statements here
19 about unemployment.

20 A Well, I'm saying on a
21 North American basis, unemployment is running as
22 measured which is a low estimate in the order of seven
23 to eight percent of the total labor force. At the
24 moment, the rate is rising. Over the next five years,
25 it is likely to rise more. It may be that there are
26 very specialized kinds of labor for which there is not
27 unemployment. But the general overall unemployment
 rate which would be available -- people would be
 available particularly if you wish to train them, there
 will no problem about recruiting labor to build this

Puxley, Watkins
Cross-Exam by Hollingworth

1 pipeline.

2 THE COMMISSIONER: Well Mr.
3 Watkins --

4 A As I understand --

5 Q Excuse me. Mr. Holling-
6 worth has a point. Presumably, the pipeline -- the
7 professional pipeline workers -- and they exist--
8 and in the United States, I think they are found
9 chiefly in Texas and Oklahoma, right? -- are fully
10 employed right now on the Alyeska pipeline. Your
11 observation about non-native unemployment so far as
12 it applies to professional pipeline workers may well
13 be unsound.

14 A Well, in that case you
15 just couldn't build a pipeline at all I would presume.
16 I accept the point that my -- the way I phrased it
17 may not be wholly correct but it wouldn't alter the
18 point of my argument. If the people who are needed
19 are so skilled that they are not even available in
20 southern Canada, they are certainly not going to be
21 available amongst the Dene and the Inuit.

22 Q Well, with the
23 completion of the Sarnia and Montreal oil pipeline,
24 it may well be that the Canadian -- a segment of the
25 Canadian pipeline work force is available now.
26 Anyway, carry on.

27 A Well I would -- my main
28 point though would stand that Dene labor is hardly
29 essential.

MR. HOLLINGWORTH: No, but it

Puxley & Watkins
Cross-Exam by Hollingworth

1 is available.

2 A Well it --

3 Q The petroleum industry
4 has launched into a very long reaching program to
5 ensure that it's trained. So what is the point of
6 that whole statement?

7 A Well there was a lot
8 of debate here earlier Mr. Hollingsworth as to --

9 Q It's Hollingworth.

10 A -- as to how many people
11 are involved in that training program and it was not
12 my impression that you could say it was vast in numbers.
13 We're talking about 100 people or something. It's
14 a very, very petty cash operation from the viewpoint
15 of the oil industry.

16 Q Well, I think the
17 evidence went further than that Mr. Watkins. But that's
18 a matter for argument.

19 Now, on page ten, you make
20 the assertion that the applicants have classed the
21 Dene simply as wage earners.

22 A Yes.

23 Q Now, are you not aware
24 of a proposal made Mr. Blair, the President of Foothills
25 Pipelines for equity, ownership and participation in
26 the Foothills scheme by the native people of the
27 north?

28 A Well, let me say a
29 couple of things. First --

30 Q Are you aware of it?

Fuxley & Watkins
Cross-Exam by Hollingworth

A Yes but can I answer
the question?

Q Yes.

A I went through -- I think
I've gone through all of the applicants' submissions
and back-up research as in the case of Gemini North
and Van Ginkle and so on. There is absolutely-- I
have been unable to find any statement which recognizes
that the Dene could get a benefit other than as a
wage earner. So that the first point I would want to
make is that you would have to amend your submissions
if you are -- if that's so.

Now, if the question of equity,
well, you would have to tell me whether you plan to
give them the equity or sell them the equity. I under-
stood that the offer from Foothills was to say that
the Indian people could buy.

Q That's right.

A --shares. Well how
are they to finance this? I mean it's not ^{my} impression
the Indian people are wealthy. They rely presently
on the Government of Canada to fund even the Indian
Brotherhood. How would they buy these shares? It seems
to me it's not an offer worth talking about unless you're
in fact talking about giving the shares.

Q You are assuming that a
land claims settlement would involve no cash considera-
tions being advanced to the Dene by the Government of
Canada.

A No, I presume that there

1 would be cash involved. Yes.

2 Q Well would that --

3 A I mean I am not sure
4 what you mean by the "Government of Canada". I am
5 talking about the companies, not the Government of
6 Canada. It's the companies that are going to get the
7 big benefit of this. Why should the Government of
8 Canada, through it's -- by imposing it on Canadian
9 public in general be expected to fund this? Why
10 wouldn't the companies fund it? They get the super
11 profits.

12 Q Well sir, we're getting
13 into your economic theories which diverge somewhat from
14 mine.

15 A Well I can't answer your
16 question --

17 Q Let's just go back to
18 the main point. You're saying that an equity offer
19 is meaningless because the Dene don't have any money.
20 I'm suggesting to you they would have money from a
21 land claims settlement. Now, are you prepared to
22 concede that?

23 A Yes, they might have
24 money. I don't know what the terms of the final
25 settlement will be. No one knows that. Then they
26 would have to decide for themselves whether it was the
27 most fruitful use of any money they were to get. It's
28 certainly my understanding from what Dene leaders have
29 said that they give a low or a zero priority to
30 investing in pipelines. That in fact what their interest

Puxley & Watkins
Cross-Exam by Hollingworth

1 is is in creating community based economic development.

Q Was that your understanding?

A There is no indication.

4 Yes. One would have to put the question to the Dene
5 leaders themselves. But that's my understanding of
6 their position.

7 Q That's your understanding?

8 All right.

9 A Yes.

10 Q Now, as I further

11 understand that statement, you would say that because
12 the applications don't specifically say that the
13 native should be entitled to royalties or to right-of-
14 way payments, then the applicants are in fact denying
15 that to the natives?

16 A That's my inference, yes.

17 Q That's your inference.

18 All right.

19 A Again, it would be very
20 easy to clear this up by stating the contrary.

21 Q Now, on page twelve,
22 you're talking about economic linkages. You say about
23 half-way down -- you say:

24 "Rather the linkages tend to generate economic
25 activity in southern Canada, the United States and
26 elsewhere thereby creating benefits outside the
27 north. This does not mean that there is necessarily
28 a net benefit to southern Canadians. Whether or
29 not there is depends as well on the effects of
30 frontier development, on primary product prices and

1 hence indirectly on the prices of other commodities
2 embodying the primary product. If the price of
3 staple rises to make frontier production possible,
4 this will lower the real incomes of those who
5 directly or indirectly consume the staple. This
6 phenomenon is clearly relevant with respect to
7 high cost northern oil and gas and very probably
8 makes the net benefit to the great majority of
9 southern Canadians negative."

10 Now, I suggest to you sir
11 that your suggestion -- and you do have the modesty
12 to say very probably -- that your suggestion is pure
13 guesswork.

14 A Perhaps you could let
15 Dr. Helliwell comment and he can discuss this because
16 he's done the quotation.

17 Q Well if I had my way
18 Dr. Helliwell won't be here.

19 A Yes but then in order for
20 me to answer the question I would have to appeal to
21 what I understand to be a serious -- what I see as an
22 economist, is serious research has been done on it.
23 The most serious research that's been done on it is
24 Dr. Helliwell's research and it's my understanding
25 that that statement would be correct from his research.
26 But he would have to answer that.

27 Q Oh, I see.

28 A I say very probably only
29 because it seems to me in any science -- any subject
30 that has a pretention to be a science -- I am not

Puxley & Watkins
Cross-Exam by Hollingworth

1 prepared to state that something's absolutely certain.
2 I think that it's very probable that -- you know --
3 gas prices are going to have to rise. Therefore,
4 everybody that consumes gas in southern Canada is going
5 to suffer a loss in their real income as a result of
6 this increase in the cost of gas. Now, I think very
7 probably they will end up being worse off as a result
8 of this project.

9 Q Yes sir, but that's --

10 THE COMMISSIONER: Excuse
11 me. That's a matter for the National Energy Board.
12 Whether this pipeline as a whole is of benefit to
13 Canada. That's what Mr. Watkins is saying in that
14 passage that you quoted. That it will not be of net
15 benefit to Canada as a whole and frankly that's something
16 that I'am not interested in. I'm interested in it as
17 a citizen, but no one's asked me to express a judgment
18 on that particular question. So --
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Puxley & Watkins
Cross-Exam by Hollingworth

The government hasn't asked me to express a judgment.

MR. HOLLINGWORTH: All right, Mr. Watkins, if we can go on now to page 30 of your evidence then.

WITNESS WATKINS: O.K.

Q Perhaps, sir, before I address the question to Mr. Watkins I'll address a question to you. Mr. Watkins here is dealing with what he regards as the continental interest served by the Foothills project because it would have to go to bed with the same U.S. control producing companies, is the way he puts it. Now, I take it that from what you've just said that you're not interested in that evidence and are going to disregard it?

WITNESS PUXLEY: Yes.

THE COMMISSIONER: Excuse me. Where is this?

MR. HOLLINGWORTH: This is on page 30 of Mr. Watkins' evidence.

THE COMMISSIONER: How far down?

MR. HOLLINGWORTH: It's right at the top.

THE COMMISSIONER: Well, the passage in which Mr. Watkins says -- and he has discreetly put this in brackets -- just as he had the earlier passage where he snuck in a reference to the benefits or the lack of benefits to Canada as a whole, where he says that your scheme is simply a way of justifying continued export of Alberta gas to the U.S.

by bringing Canadian frontier gas to Southern Canadian markets. That's beyond my terms of reference, that's the Energy Board's. That's their problem, and I take no notice of that sentence.

MR. HOLLINGWORTH: Well, sir, it's very difficult for me when I prepare cross-examination of this nature because my experience is that most of this type of evidence is allowed in by your rulings. Here is Mr. Watkins making statements which are undoubtedly going to get out over the press and on the radio, making statements which really have no bearing on the terms of reference of your Inquiry. When I come along to challenge those statements you tell me, "Well, I disregard those because they have nothing to do with my terms of reference. "

But I object to this type of evidence going in in the first place, sir.

THE COMMISSIONER: Then you should have objected before it went in. You had the evidence in advance, you could have said yesterday before Mr. Watkins began to read, "I object to that passage on page 30." I noticed when he read it that he was going beyond what this Inquiry has any mandate to examine, but there hasn't been a witness, lay or expert, for any party including Mr. Blair and Mr. Horte, and Mr. Wah-Shee, Mr. Raddi, and Dr. Pimlott, if I may describe the leading figures in all the organizations that appeared before me, there hasn't been one of those people who hasn't gone beyond knowingly the terms of reference of this Inquiry, to make

Puxley & Watkins
Cross-Exam by Hollingworth

1 a point clear, and I think on occasion to make a point
2 with the press in mind and not the Inquiry; but that's
3 human nature and frankly I assumed that counsel were
4 not trying to pick out passages like that in advance,
5 take formal objection to them, and delay the work of
6 the Inquiry. I thought counsel as a matter of what I
7 conceived to be sound judgment were saying, "Well, let's
8 let it go in and get on with the job because all of
9 the witnesses are sinners in this regard."

10 MR. HOLLINGWORTH: Well, as
11 long, sir, as I have your assurance that you're
12 disregarding that I'll go onto the next question.
13 It falls in the same category.

14 THE COMMISSIONER: Mr. Blair
15 would be surprised if it were alleged that he were
16 developing an intimate relationship with American
17 interests.

18 MR. HOLLINGWORTH: Well, I was
19 certainly surprised to read it.

20 THE COMMISSIONER: All right.

21 MR. STEEVES: I was glad to
22 read it.

23 THE COMMISSIONER: I missed
24 that. Was it something that was worth --

25 MR. HOLLINGWORTH: Q Well, Mr.
26 Watkins, if I can get down to what I understand to
27 be your general thesis, and that's this, that the
28 present form of development hasn't served your clients
29 well, if we can call them your clients, historically.
30 I take it you go beyond that and say that the present

Puxley & Watkins
Cross-Exam by Hollingworth

1 form of development hasn't served the majority of
2 Canadians well, and you seem to feel that some type of
3 regional development is what is called for. Do I have
4 you so far?

5 WITNESS WATKINS: Well, I
6 don't think we want to get into a discussion about
7 the majority of Canadians, since that doesn't seem to
8 be germane to what is here. But yes, I certainly
9 believe that the local residents, the permanent
10 residents of the Southern Mackenzie District, the
11 native people have been very badly served indeed by
12 the kind of projects that have taken place in the
13 past, such that I suspect that they have been made
14 worse off than they would have been if these projects
15 had never taken place.

16 Q And further, you feel that
17 some type of regional development is what is called
18 for, not just in the north but everywhere throughout
19 Canada.

20 A Well, again I don't
21 know whether you want to get into discussions about
22 what should be true throughout Canada as a whole.

23 Q Mr. Watkins, your
24 evidence covers that and if you just answer my
25 question, subject to the judge's objections.

26 A Well, it's --

27 Q It's for him to decide.

28 A Well, my problem with
29 the word "regional" in this context is simply the
30 question of sorting out who in fact are -- have rights

Puxley & Watkins
Cross-Exam by Hollingworth

1 as residents of the region and it's a special problem
2 in an area such as the north, where the majority of
3 the population, a great majority, in any sense of
4 permanent residency, is in fact a native population.
5 So I'm a little reluctant to get into making generaliz-
6 ations about all regions in Canada because there are
7 some very special problems that exist here in the
8 north that are obviously quite different from those
9 that exist in Newfoundland.

10 Q All right, well let's
11 deal with the north then for a moment. All right,
12 you feel that the permanent residents of the north
13 should develop some type of regional developments such
14 that they're not so dependent on outside regions.

15 A Yes.

16 Q Now how far down do you
17 break this regionalism? Do you divide it into geo-
18 graphical units or ethnic units?

19 A Well, as I understand
20 it here in the north you'd get the same answer using
21 both definitions. The Dene occupy a fairly clearly
22 bounded land in the Mackenzie District south of the
23 tree line. The Inuit occupy a fairly clear geographic
24 space north of the tree line, and most of the white
25 people are transients.

26 Q Most, but not all.

27 A Well, most, yes.

28 Q But you exclude all
29 white people from --

30 A No, I suggested yesterday

that it isn't a question of whether I exclude them really in this case. It is very much a question for the Dene themselves to decide and the Inuit themselves to decide. It's my understanding that all of the native organizations have endorsed a 10-year residency rule. Then a person, as I understand it, would have full political rights if they have been resident for ten years.

Q All right now, to get back to this regionalism concept. It's my understanding that you object to economic activity between two regions if one region is clearly at a disadvantage to the other in economic terms. In other words, if one region is shipping raw products to the other region to manufacture them and ship back and sell, you don't like that.

A Well, that's probably a concrete case where I would object. In general, well what I'm objecting to is inter-regional economic relations which disadvantage one of the regions rather than creating mutual benefit for both of the regions. I'm not ruling out, I'm not saying, I'm not advocating autarky in the absence of all trade or anything of that nature. One has to look.--

THE COMMISSIONER: What's that word mean?

A Autarky means complete self-sufficiency, the absence of all trade. You'd have to look, it is more difficult in the sense that you have to look at each of the major transactions that

Puxley & Watkins
Cross-Exam by Hollingworth

1 take place between these two regions, let's say Southern
2 Canada, the Mackenzie District and all the rest of
3 Canada, and decide which of these are advantageous
4 in the sense of creating mutual benefit, and which are
5 disadvantageous in the sense of creating only benefit
6 to one of the regions. I have been trying to suggest
7 in my evidence that substantially the activity
8 in the mineral sector, both mining and oil and gas,
9 has disadvantaged the permanent residents of the
10 Mackenzie District, and it probably has advantaged the
11 rest of Canada but that's apparently not germane to
12 our discussion.

1 Q Let me ask you this,
2 suppose for instance, there was native labour employed
3 in cutting timber, in this area outside Yellowknife,
4 but then it was shipped into Yellowknife and turned
5 into canoes and sold back to the natives and the
6 economic advantage clearly fell to the town of Yellow-
7 knife, which is predominantly white. Now, I take it
8 you object to that type of activity as well?

9 A Well, it's a question
10 of who -- it's a question of whether the Dene are
11 benefiting from it that we'd have to examine.

12 Q Well, are you giving
13 us a general principle or are you giving us a particular
14 principle?

15 A I'm trying to give you
16 a general principle that says that economic relations
17 between regions should be to the mutual advantage of
18 both regions and the relationship should be re-examined
19 and restructured if it appears that one of the regions
20 is being disadvantaged by the inter-relationship.

21 Q Well, I take it you would
22 object to the arrangement that I just set out to you
23 about the canoes?

24 A You'd have to look at
25 it in detail and then you'd have to see whether it
26 was something that the Dene themselves thought was
27 worthwhile. I don't see what it has to do with
28 mining and oil and gas.

29 MR. HOLLINGWORTH: I have
30 no further questions.

1 MR. GOUDGE: Mr. Steeves?

2 CROSS-EXAMINATION BY MR. STEEVES:

3 Q Mr. Watkins, may I direct
4 your attention, please, to page 25 at the
5 bottom and 25A of your prepared evidence?

6 MR. GOUDGE: Could you pull
7 the microphone a little closer to you please?

8 MR. STEEVES: Sorry.

9 Q Can I direct your attention
10 please, to -- have you got it? The bottom of page
11 25.

12 A Yes.

13 Q And the beginning of
14 page 25A. Would you begin your rereading at the
15 words,

16 "Thirdly, if rents accruing to the Dene are
17 to be justified by some criteria ..."
18 and carry on over to subsidization of Dene institutions.

19 A Okay.

20 Q Is full employment an
21 objective of the leadership of the Dene people?

22 A Well, clearly you would
23 have to ask the Dene themselves.

24 Q Well --

25 A Of course, I'm not
trying to be evasive. I think it should be. I'm an
economist and I therefore -- full employment meaning
again to go back to a previous point, you know, gainful
activity, rather than necessarily someone else's outside
conception of what they mean by employment. I take

Puxley, Watkins
Cross-Exam by Steeves

that people -- I have enough of the Protestant ethic in me that I think people should be gainfully engaged in productive activities.

Q I'm sorry, what is your answer? That I should ask the Dene people?

A Well, if the question is literally, do they want full employment, I think, yes, you'd have to ask them. I presume the answer is yes, that they do.

Q Amongst other things, we're letting a lot of hearsay in at this Inquiry. You've spoken from time to time in your direct evidence and in your responses to Mr. Hollingworth about your understanding from the time you've spent working with the Dene as to what their aspirations are. Now, I repeat the question. Is that one of the objects of the Dene leadership, to--

A If I --

Q Don't interrupt, please.

A Sorry.

Q To provide full employment in the communities?

A That would be my understanding, yes.

Q I see, and that's your understanding based on your discussions with the Dene leadership, is it?

A Well, based on listening to what the Dene have said, yes.

Q We're contrasting here, it

Puxley, Watkins
Cross-Exam by Steeves

may be your own idea of what's good for the Dene.

It's not that?

A You'd have to ask the
Dene leadership.

Q Is it your own idea
of what's good for the Dene?

A Yes, of course it is.
I can only speak for myself.

Q And it's not based on --
pardon me?

A I can only speak for
myself.

Q And it's not based then,
on what you've learned from the Dene themselves?

A No, I said it was based
on my understandings.

Q Well, which is it?

A It's both.

Q Okay, it's both.

Would you turn please, to --

I'm sorry, let me go back to that for a moment. I
understand your position to have been Economic Con-
sultant to the Dene people or the Dene organization,
am I correct in that?

A To the Indian Brotherhood,
yes.

Q And have you discussed
with the Brotherhood and its leadership the consequences,
the meaning of full employment in the sense we're
talking about here?

Puxley, Watkins
Cross-Exam by Steeves

1 A It's very hard to answer
4 a question like that, in terms of discussions and
6 meetings that have taken place over a two year period.
8 Certainly I've been at meetings at the community level
10 in Yellowknife, in which people have talked about their
12 desire for community based economic development and
14 I presumed from that -- to use the language that the
16 economist would use, that they are interested in
18 full employment.

20 Q M-hm. I direct your
22 attention now to page 32 of your evidence, the last
24 paragraph on page 32. Is it that your -- is it your
26 opinion, as I take it from that paragraph, that the
28 settlement or reasonable settlement of the claims of
30 the Dene people depend upon the pipeline project going
32 ahead?

34 A No, by no means. I'm
36 saying that whenever -- I think what I'm trying to say
38 here is that whenever a large project is proposed,
40 whether it's a hydro-electric development in James
42 Bay or or hydro-electric development in northern
44 Manitoba or pipelines here, where the population is
46 a native population, that that should become the
48 occasion for working out a new land settlement, but if
50 the native people say that they cannot answer the
52 question about whether the project should proceed until
54 after the settlement, then I would respect their right
56 to state that.

58 Q All right.

60 THE COMMISSIONER: In this

Puxley, Watkins
Cross-Exam by Steeves

passage that Mr. Steeves has cited, you say, how does the pipeline project contribute to alternative development unless the project, because it's being proposed by the industry, becomes the occasion for working out a new land settlement with the Indian people. I don't quite follow that. Are you saying that that is the contribution the pipeline project is making to northern development, that it is providing an occasion for all concerned to address themselves to this question of land claims, and in that way it is making a contribution to northern development, using development in the sense that Mr. Puxley and you have used it?

A Yes, the key word is "proposed."

MR. STEEVES: I'm sorry, I can't hear you.

A The key word is the word "proposed," I'm not saying projects like the pipeline contribute, I'm saying projects like the proposed pipeline may become the occasion for discussing and this is true here in the Mackenzie District, we've heard evidence from James Bay and from northern Manitoba and other places that this was not true elsewhere. I'm saying whenever these proposals come forward, that surely that becomes the occasion for a far-reaching, far-searching examination of what the nature of regional development, in this case for the majority of native people, should be. But, in no way can that -- can we say, well, but that's true only if the project is assumed to proceed, because that would deny the very

Puxley, Watkins
Cross-Exam by Steeves

1 essence of the right of the local people to make that
2 decision. I suppose the other point I was trying to
3 get at in that statement on the bottom of page 32 was
4 to speak to the specific point of prejudice. That is,
5 it seems to me that to start the project prior to
6 such a settlement would be absolutely intolerable.
7 Whether the project should ever go ahead will, in
8 the way I see it, would be primarily a matter for
9 the Dene and Inuit and the companies themselves to
10 strike a bargain on, subject to government approval
11 or disapproval of the bargain.
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Puxley & Watkins
CROSS-Exam by Steeves

1 THE COMMISSIONER: Now, Mr.
2 Watkins, if I could have your attention for a moment,
3 let me just ask you your view because I assume that
4 Dene leaders can speak for themselves, but let me ask
5 your view. Would it be in your view an essential
6 component of any land settlement that it should give
7 to the Dene and the Inuit the right to veto a develop-
8 ment such as a pipeline?

9 A Yes.

10 Q So then you would say
11 that the Cree and the Inuit should have had the right
12 to veto the James Bay project.

13 A Yes.

14 Q And the Indians and the
15 Metis on the prairie should have had the right to
16 veto the C.P.R.

17 A They didn't actually
18 ask for that right, though. It's a question of look-
19 ing at the matter in principle, yes, they had the
20 right; but if you look, as I recall, at the demands
21 that were made by Riel and his supporters, both in
22 M anitoba and again later in Saskatchewan -- the
23 Saskatchewan case is so much more interesting case,
24 presumably -- then their demands were not at all that
25 the C.P.R. not be built. That was not one of their
26 demands. So that becomes irrelevant.

27 I think as Professor Page
28 reminds us, the great tragedy in that case was that
29 a very modest set of demands were repudiated.
30

Puxley & Watkins
Cross-Exam by Hollingworth
Cross-Exam by Steeves

1 CROSS-EXAMINATION BY MR. HOLLINGWORTH (CONTINUED):

2 Q Does that mean that
3 you're not prepared to answer whether the Indian and
4 Metis of the prairie should have had the right to
5 veto the C.P.R.? Perhaps they didn't ask for it
6 because they didn't think they could possibly get it.

7 A Yes, that's possible.
8 So just to clarify that point, my view would be that
9 they should have had that right.

10 It seems very strong,
11 and I'm not trying to be absurd here, but what other
12 way could there be that is respectful of a fundamental
13 human right? If you over-ride the wishes of the
14 aboriginal people who were here before the white man
15 came, then how can that be justified? I cannot
16 justify it in my mind, that's why I tried to deal
17 with the question in the final part of my evidence.
18 It seems to me there's an act of coercion, it's a
19 wilful act of coercion, and I at least could not live
20 with such an act of coercion and I don't claim any
21 moral superiority to anyone else. I don't understand
22 how other people do live with the possibilities.

23
24 CROSS-EXAMINATION BY MR. STEEVES (CONTINUED):

25 Q Well, are you advising
26 the Dene people have political rights, or are you an
27 economic consultant?

28 A Well, firstly, I'm not
29 an advisor, I'm a consultant. Basically to the
30 extent that we can make that distinction between

Puxley & Watkins
Cross-Exam by Steeves

1 economic and political and in some considerable sense
2 we can make it. Clearly I'm an economic consultant.

3 Q And you're also a
4 political advisor for the Dene leadership, and the
5 ideas you've talked about --

6 A I was just thinking --

7 Q Please, let me finish.
8 The ideas you've just been talking about like what is
9 truth and what is justice are really political questions,
10 aren't they?

11 A No, they're moral
12 questions, which all of us must wrestle with as private
13 citizens. I don't claim economists have anything
14 special to say on this question. Indeed by and large
15 to be trained in economics and perhaps to be trained
16 in law is to lose the ability to think about these
17 questions.

18 Q It's true then that
19 your opinion on those questions is no better than mine.

20 A Oh, we're all equal,
21 we're all equal.

22 MR. STEEVES: That's all I
23 have, sir.

24 THE COMMISSIONER: Any ques-
25 tions?

26 MR. GOUDGE: I think if we
27 broke for lunch I think we could shorten this, sir.

28 THE COMMISSIONER: Well, I
29 dispute that. I think if we didn't break for lunch
30 we'd shorten it. All right, two o'clock.

Puxley & Watkins
Cross-Exam by Roland

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: Let's
begin again then and Mr. --

MR. GOUDGE: Mr. Roland.

THE COMMISSIONER: -- Roland.

MR. ROLAND: Yes sir. I
have just a few short questions.

CROSS-EXAMINATION BY MR. ROLAND:

Q Mr. Watkins, you've
made reference --

MR. BELL: Excuse me. I
think Mr. Puxley wanted to add something to an
answer that he gave this morning Mr. Roland if that's
all right with you.

MR. ROLAND: Yes sir. Go
ahead.

WITNESS PUXLEY:
A If I could just enlarge
a little upon what I thought might lead to a mis-
conception this morning concerning the comparison of
the land use maps and Mr. Rushforth's study.

Just to go back a little over
the history of the land use maps, at the very start
those maps were never intended in any way to contribute
to an attempt to quantify a way of life. There was
considerable debate when the subject of the Inquiry
came up within the Brotherhood as to whether or not
it was worthwhile attempting in any small project in
fact to put a figure to one aspect of really what
people consider to be a world view.

The land use maps should be

Puxley & Watkins
Cross-Exam by Roland

1 seen as a very personal statement by people in the
2 communities about a way of life.

3 Mr. Rushforth's study it was
4 hoped would not lead to an attempt to quantify that
5 way of life by referring simply to the economic -- let's
6 say the dollar value of people's dependence on country
7 food. So it's not really legitimate to compare the
8 two and it should be born in mind that when people gave
9 evidence on the land use maps they did not see it in
10 that light at all. What they wanted to try and convey
11 was the integrity of a way of life.

12 The second point which was
13 raised with me by one of the people from Fort Franklin
14 who is involved in the Rushforth ^{study} itself, they did not
15 want the impression to be left that that was in fact
16 Mr. Rushforth's study. The study was designed by the
17 Band Council and it involved 98% of the people of
18 Fort Franklin. They thoroughly approved of it. They
19 were involved throughout, and it should be seen as their
20 study.

21 That's all I have to add sir.

22 Q Mr. Puxley, perhaps I
23 could ask you this question which follows somewhat upon
24 what you've just said. As I understood you this
25 morning, you said that there are some natives who aren't
26 able to trap and hunt more than for a short period of
27 time. I think you said that in response to a question
28 asked by Mr. Hollingworth. It has also been indicated
29 to us in evidence from several sources that there are a
30 number of natives -- the number being in dispute -- who

Puxley & Watkins
Cross-Exam by Roland

1 hunt and trap for an extensive period of time during
2 any given year. Could you tell us why some natives
3 aren't able -- I think you used the word "unable" --
4 to hunt and trap while others are?

5 A Well the reasons vary.
6 But let me give you one concrete example. That would be
7 the situation of a man with a large family and the
8 requirement that his children attend the school in a
9 community. He is loathe to leave that family for
10 extended periods of time. That makes that way of life
11 that much less viable. There are other people who
12 trap -- whose trapping grounds are a considerable
13 distance from their community who -- if you look back
14 over the history of land use in the Territories --
15 depended on some kind of outfitting or trading post
16 within a reasonable range of their trapping areas.

17 Now, the whole point of
18 Miss Nahanni's evidence was to show that over time
19 the kind of support system that existed for that
20 industry has, under colonial development, been eroded
21 and the support system today is not in evidence. So,
22 it requires a much more considerable sacrifice on the
23 part of the trapper.

24 There are numerous other
25 examples I could give such as the attempt to centralize
26 people through various other social programs in the
27 communities. But these have had the effect of putting
28 the emphasis on community centered life as opposed
29 to life on the land.

30 Q In your presentation, Mr.

Puxley & Watkins
Cross-Exam by Roland

1 Puxley, you also mentioned the process of de-coloniza-
2 tion which, I take it from your presentation would
3 require a substantial period of time. I also take it
4 from your presentation that this process is necessary
5 before any kind of major development such as a pipeline.
6 Have you turned your mind to the length of time that
7 would be necessary before a pipeline could be built
8 in a way acceptable to the natives?

9 A Well, I could say two
10 things. My paper was an attempt to state things in
11 terms of a humanist approach to development problems.
12 So, it was in that sense a humanist model -- an ideal
13 based on humanist assumptions. In those terms,
14 de-colonization never ends. The purpose of human life
15 is constantly to address and transcend the kinds of
16 assumptions that you have worked on in the past.

17 For that reason, you know,
18 it would be pretty difficult to put a length of time.
19 I would say the process of de-colonization is taking
20 place here and now today. This Inquiry itself con-
21 tributed to that process through the community hearings.

22 Q Have you thought of
23 a minimum period?

24 A To consider something
25 like a pipeline project?

26 Q Yes. That's correct.

27 A Let me put it this way.
28 If people are forced merely to react to that kind of
29 project and that becomes their sole concern, I suppose
30 that it would be possible and it has been possible for

Puxley & Watkins
Cross-Exam by Roland

1 them to state an opinion within the space of time
2 of a year, a year and one-half. That's not to say
3 that with a longer period of time they may get a
4 better grasp of the reality they live within and
5 change their opinions. I don't know.

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Puxley & Watkins
Cross-Exam by Roland

1 THE COMMISSIONER: I don't follow
2 that Mr. Puxley. What does that year and a half represent?

3 A Well, during
4 the past year and a half I think the communities have
5 turned their attention more to the pipeline than to
6 any other concept of development, and that has occupied
7 their sole attention during that period.

8 THE COMMISSIONER: What was
9 your question?

10 MR. ROLAND: My question was
11 when the natives would be ready to deal on their terms
12 with a major development such as a pipeline.

13 THE COMMISSIONER: You mean to
14 talk about it or to live with it?

15 MR. ROLAND: Yes, to live with
16 it, to cope with it as an enterprise that is ongoing
17 and under way.

18 A I don't think I could
19 answer that question. You know, the length of time is,
20 I would say probably as long as they could possibly
21 obtain, given the other political realities within the
22 country.

23 Q Mr. Watkins, you referred
24 this morning to some successful native enterprises and
25 I believe you referred specifically to reindeer
26 hunting around Inuvik as an example of a successful
27 native enterprise.

28 WITNESS WATKINS: Not to my
29 knowledge.

30 Q Well, maybe I'm wrong.

Puxley & Watkins
Cross-Exam by Roland

1 THE COMMISSIONER: That was
2 when I was on the phone.

3 MR. ROLAND: Well, as an
4 economic advisor to the Brotherhood are you aware of
5 any successful native enterprises?

6 A Well, that is -- I'm not
7 trying to be evasive, but that will be a question
8 which the Brotherhood and Metis Association will lead
9 some evidence on, I guess very shortly. Mr. Bell
10 could perhaps clarify that, but Mr. Laing, who is a
11 financial consultant to the Indian Brotherhood, will
12 be offering some evaluation of existing governmental
13 programs to communities for development purposes.
14 We're hoping that Dr. Sam Stanley of the Smithsonian
15 Institute in Washington, D.C., who has a book that
16 will be appearing this fall on evaluating some six or
17 seven projects on Indian Reservations in the United
18 States, is going to come and share his experience with
19 what kinds of projects work and what kinds of projects
20 don't work in that context, and we'll also be leading
21 some evidence done by Robert Ruttan and John T'seleie
22 on the potential for renewable resource development.
23 I don't know whether --

24 Q Well, I don't want to
25 get into discussions. I take it, Mr. Watkins, you are
26 aware of that evidence and of what characteristics
27 make for a successful native enterprise and what
28 characteristics don't, and you adopt that evidence
29 that will be presented and have nothing further to
30 add to it.

Puxley & Watkins
Cross-Exam by Roland
Cross-Exam by MacQuarrie

A Certainly I'd be very much influenced by what I've read as written by these people. I know a little bit but not a great deal, not as I think perhaps as Mr. Laing does about some of the sawmilling endeavors around Jean-Marie and Fort Resolution, although even there much of what I would know would probably be in part gained from reading community transcripts that have already been presented to the Inquiry.

MR. ROLAND: Thank you. Those are all the questions I have.

THE COMMISSIONER: You didn't say anything about reindeer herding at Inuvik, did you?

A No. Mr. Bayly may have but I didn't.

THE COMMISSIONER: Any re-examination?

MR. BELL: No re-examination, sir.

THE COMMISSIONER: Oh, forgive me, of course.

MR. GOUDGE: No, that's my fault.

THE COMMISSIONER: Yes, do you want to sit down with one of the microphones at the -- sit with Mr. Bell, if you like, and use his microphone.

CROSS-EXAMINATION BY MRS. MacQUARRIE:

Q Mr. Watkins, on page 13

Puxley & Watkins
Cross-Exam by MacQuarrie

1 the last paragraph, I wonder if you are concerned that
2 the unions would cause a great deal of domination
3 resulting in that no meaningful employment would be
4 available for native people? Is that what you're
5 alluding to in this section?

6 A I'm sorry, referring to
7 which page?

8 Q Page 13, the last
9 paragraph.

10 A And am I saying anything
11 about unions, is that the question?

12 Q Yes. Are you referring
13 to perhaps a possible union domination resulting in
14 perhaps no meaningful jobs being available to native
15 people?

16 A No, I wasn't. No.

17 Q On page 25, the bottom
18 of the page, I believe, you say:

19 "Our final observation on this second principle
20 is to remind ourselves, as Harold Cardinal
21 already has, that the Indian people have a
22 tradition of sharing."

23 Is there any recent evidence that this is still the
24 case in this day and age?

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Puxley, Watkins
Cross-Exam by MacQuarrie

1 A I would have thought
2 there was overwhelming evidence of that from anyone
3 who's been in a Dene community, as to the manner in
4 which country food is shared by these people. If
5 you wish expert evidence, I think Mr. Asch, amongst
6 others, Mr. Rushforth, have spoken to that point.

7 Q Then would you say that
8 the Indian people in the community share to a great
9 deal more than other groups do?

10 A Yes.

11 Q Thank you. Within
12 individual communities or between other tribes? What
13 is their relationship regarding sharing from one tribe
14 to another?

15 A Well, I expect people
16 tend to share more with those who are immediately con-
17 tiguous to them and the communities are often widely
18 separated, but I'm -- perhaps Mr. Puxley can help me
19 or some other witness can. I would -- as I understand
20 it there are or have been community caribou hunts
21 involving people from more than one community and
22 perhaps, using your language, from more than one tribe.

23 Q Is this sharing limited
24 only to the food supply?

25 A Well, I think Dr. Asch
26 spoke -- made a very compelling powerful point in this
27 regard when he pointed out that one of the problems
28 with the wage economy is that it tends to break down
29 that process of sharing and that's one of the very
30 high social costs that results from the imposition of

1 a Euro-Canadian model of the wage economy on Dene
2 communities. I think Dr. Asch was very clear on
3 that point in his evidence and he is much more qualified
4 in that area than I am, both in terms of having lived
5 in an Indian community, which I have not done. Certainly
6 Yellowknife is not an Indian community, and also he
7 has done extensive field work and he is an anthropologist.

8 Q Thank you. The next
9 question that I have, Mr. Watkins, is on page 28. Is
10 it really in the long-term interests of the Dene to
11 remain as a separate group or would it be better for
12 them at this time to integrate more fully with the
13 rest of Canadian society?

14 A I think that they -- only
15 they can answer that and I think they have answered that
16 and certainly George Manuel, speaking on behalf of
17 all the Indian people of Canada, answered that. Or,
18 we could look at the size of rejection by Indian bands
19 and Indian groups across Canada, the government's
20 scandalous white paper on Indian affairs in 1969. There
21 seems absolutely no doubt that people do not wish to
22 be integrated in what I believe to be the terms you
23 are referring to, and any kind of integration that is
24 forced integration must be absolutely rejected, both
25 because it's immoral and also because it doesn't work.

26 MRS. MACQUARRIE:

27 Q Thank you.

28 MR. GOUDGE: I think that
29 would conclude this panel, Mr. Commissioner.

30 MR. BELL: As I said sir,
I have no re-examination. Our next witness is Anne

1 Forrest, perhaps I could have five minutes to get
2 ready.

3 THE COMMISSIONER: Thank you
4 Mr. Watkins, thank you Mr. Puxley.

5 (WITNESSES ASIDE)

6 MR. GOUDGE: I wonder sir,
7 if we might use the time to complete the argument on
8 the motion that you began to hear yesterday, and
9 following that could we have Ms. Forrest, would that
10 suit you?

11 THE COMMISSIONER:

All right, yes.

12 I think that will be all right.

13 MR. GOUDGE: Mr. Sigler and
14 I both have submissions to make sir; with your leave,
15 Mr. Sigler I think would begin.

16 MR. SIGLER: Yes sir, having
17 looked at the Helliwell evidence, the central point
18 of the evidence would seem to be an attempt to establish
19 what benefits, by way of total royalties might accrue
20 to the Territories and the people of the Territories
21 and from that point of view, the Association of
22 Municipalities would urge that this evidence be con-
23 sidered by the Inquiry as being relevant.

24 I should mention that the
25 Association's submissions will be aimed directly at
26 establishing that -- that with development a large
27 share of royalties must accrue to the Territories and
28 in turn be made available to municipalities to enable
29 the municipalities to provide the services that will
30 be required of them as the level of local government in

1 the Territories. We, as I say, our evidence, our
2 panels will be aimed at presenting evidence to show
3 the Inquiry the contemplated levels of expenditures
4 and the royalties that will be required to meet those
5 costs and we'll be making specific recommendations
6 in that regard. From that point of view, sir, we
7 suggest that evidence as to the northern gas reserves
8 is indeed relevant to this Inquiry, so that northerners
9 might be able to determine the total royalty revenues
10 possibly available to them and this in turn, we'll
11 submit, lead to many specific recommendations as far
12 as the funding of different social programmes, or
13 especially for the municipal governments within the
14 Territories.

15 We would therefore urge that
16 the Inquiry hear evidence as to northern gas reserves.
17 We would suggest however, to you, Mr. Commissioner,
18 that only the question of northern reserves and benefits
19 to the north are relevant and that the portions of
20 the Helliwell evidence that deal with national reserves
21 and national benefits are not relevant to this Inquiry
22 but are properly the subject matter of the N.E.B.
23 hearing, so it's not black and white in terms of the
24 whole evidence going in or not. We would oppose the
25 motion as far as it relates to northern reserves and
26 to northern -- benefits to northerners, but we'd agree
27 with it as far as it relates to national reserves and
28 national benefits.

29 MR. GOUDGE: Yes sir, I think
30 I can be very brief. Our position is simply put that

1 we would support the introduction of this evidence.
2 Needless to say, any ruling on relevance must be made
3 against the background of the order-in-council, the
4 pipeline guidelines and the preliminary rulings that
5 you've laid down in two sets of rulings in this
6 Inquiry sir. That framework has been one which has
7 provided us, in my submission at least, with a relatively
8 flexible framework within which to conduct the work
9 of the Inquiry and with the co-operation of counsel
10 and all the participants, this method, I think, has
11 functioned successfully, with, I think flexibility as
12 perhaps its hallmark.

13 Against that background, I'd
14 like to take the liberty of characterizing Professor
15 Helliwell's evidence as other counsel have. As far
16 as I read his evidence in chief, sir, it seems to
17 address itself really to one central issue and to
18 derive implications from that central issue. The
19 central issue, as I see the evidence, has to do with
20 the net economic benefit that would accrue to Canada
21 from the building of a pipeline down the Mackenzie
22 Valley. It's not simply left at that though. In my
23 submission, if it were left there that would be a matter
24 that is certainly of central concern to the National
25 Energy Board.

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1 But Professor Helliwell does,
2 in my submission, attempt to go beyond that and to
3 derive some possible implications for the north and
4 for native northerners -- for northern natives -- on
5 the basis of what he finds to be a kind of ball park
6 figure for net economic benefit. It's those implications
7 that I think are of particular relevance to the work
8 of this Inquiry.

9 I would have great difficulty
10 I think supporting an application that resulted in a
11 detailed analysis as to the rightness or the wrongness
12 of his ball-park figures. The ball-parkness of them
13 is, in my submission, what is of concern, when you
14 put against that the implications that Professor
15 Helliwell seeks to draw.

16 I think it's only fair to
17 him to say that he doesn't do that precisely. He
18 doesn't do that in dollar terms. But nonetheless, he
19 does derive what he sees to be the implications for
20 land claims, for northerners, for natives in the north
21 of the ball-park figure being what he finds it to be.

22 Very simply for that reason,
23 because of the implications that he seeks to draw,
24 admittedly without precision, it's our position that
25 this evidence ought to be admitted. The one implication
26 that is perhaps of most relevance in our submission
27 is his implication for the timing of construction of
28 the pipeline. He sees the timing to be of particular
29 relevance in arriving at the size of the pie that he
30 sees to be available to Canada and therefore the timing

1 of construction is of particular relevance when one
2 seeks to draw implications for the north.

3 That, of the various implica-
4 tions that he derives from his over-all net economic
5 benefit figure -- that in particular in my submission
6 is of relevance to this Inquiry.

7 So, for those reasons sir,
8 it's our submission that this Inquiry ought not to
9 engage itself in a detailed analysis of whether the
10 net economic benefit is "X" dollars or "Y" dollars,
11 but ought to permit Professor Helliwell to give his
12 evidence really for the purposes of allowing him to
13 tell the Inquiry what he sees to be the implications
14 for the north. That I think he tries to do in his
15 evidence and for that reason I think his evidence should
16 be admitted.

17 THE COMMISSIONER: Well, Mr.
18 Goudge, I am not convinced he does try to do that. Let
19 me hear your comment on this. On page seven, he
20 comes to what seems to be the guts of his presentation.
21 This is the top paragraph on page seven and this is
22 what he is leading up to. I'm not being critical of
23 Professor Helliwell. He can't be expected to under-
24 stand the rules of relevance that we apply or more often
25 than not, do not apply.

26 But, in any event, here is
27 what he says. He says:

28 "What is the significance of these numbers for
29 native land claims. The sum of the two (i.e.
30 the two numbers 4.6 billion) is the amount by

1 which the value of 21 trillion cubic feet of
2 delta gas exceeds its estimated cost of develop-
3 ment of transportation. If all these estimates
4 were certain, then this is the amount that a land-
5 lord would be able to obtain for the rights to
6 develop that amount of delta gas with production
7 starting in 1981. Thus, it provides some estimate
8 of the potential value of any land claim covering
9 these producing properties."

10 Now, that's really what this
11 evidence is introduced for. That's what it's all
12 about. He goes on.

13 "Some immediate cautions are in order. The current
14 amount of proven reserves in the delta area is
15 four rather than 21 trillion cubic feet."

16 Now, I pause to say that
17 that's a disparity that is considerable and the remaind-
18 er might not be there. 17 trillion cubic feet might
19 not be there or might entail higher costs than
20 estimated. Mayber the 4.6 billion would vanish in
21 higher costs.

22 Second, the cost estimates
23 for both Mackenzie Valley Pipeline proposals are
24 likely to be on the low side. That would eat into
25 your 4.6 billion if they were on the low side. Each
26 of the applicants wants his proposal to be less expens-
27 ive than the other in order to gain N.E.B. preference.
28 But there is no apparent penalty to the successful
29 applicant if the actual costs subsequently turn out
30 to be higher than forecast.

Well, what does all this evidence of Dr. Helliwell's mean to us? If he sits there tomorrow and says "4.6 billion", I'm entitled to ask him and so is Mr. Hollingworth and Mr. Steeves, "Well but this 4.6 billion, how can we rely on it?" What if it's only 4 trillion cubic feet and not 21? What if the costs of the Foothills proposal and the Alaska Gas -- not the Alaska Gas but the Arctic Gas proposal escalate in anything like the fashion they've escalated in Alaska, where the cost of the pipeline is six or seven times what it was supposed to be? What use will that figure be to me? 4.6 billion --

MR. GOUDGE: Well sir --

THE COMMISSIONER: It's the Energy Board that has to grapple with the question of reserves and the question of the costs -- the global costs -- of building the pipeline. I can't see how this is going to help me to hear him say "4.6 billion" and then listen to Mr. Steeves and Mr. Hollingworth try to show that it's more or less, because of the disparities in the data from which the foundation is laid or to hear Mr. Bell and Mr. Bayly try to show that it's more or less.

I can't see how I am doing myself a favor by getting into this. I can't see how it's going to assist me in looking at the very difficult questions that I have to come up with some answers to.

MR. GOUDGE: Well sir, far be it for me to say why the evidence is proffered. But if I may, let me respond this way. There is no

1 doubt that even on the face of the evidence itself
2 there is a certain admitted reluctance on the author's
3 part to place very much reliance on the accuracy of
4 the actual figures he uses. Nonetheless, it does seem
5 to me sir that he does attempt to draw some kinds
6 of conceptual implications for the north from whatever
7 figure that is ultimately decided upon by those
8 authorities that must decide the figure, from whatever
9 figure is fixed on.

10 He does say -- and to me
11 this is the relevance that I saw in the evidence -- that
12 whatever the net economic benefit, there is an estimate
13 there of the potential value of any land claim. That
14 is no doubt in my submission, a northern economic
15 implication to be derived from the national economic
16 benefits accruing to Canada from the building of this
17 pipeline.

18 THE COMMISSIONER: Well the
19 4.6 billion is a national figure.

20 MR. GOUDGE: Yes sir, I quite
21 agree with/ ^{that.} It's a figure that is proffered as I read
22 the author not as absolute truth, but hedged round
23 with a multitude of qualifications. It's not the
24 figure itself in my submission, that is
25 central to the evidence. Whatever the figure may be,
26 it's the northern implications that the author seeks
27 to draw from what I called earlier the ball park
28 figure to get away from any precision. It's the
29 northern implications that the author seeks to draw from
30 the ball-park figures that I say makes it relevant.

THE COMMISSIONER: But he
-- you see, he says -- I've read you the top paragraph
on page seven then the second paragraph on page
nine. He says:

"What are the implication of all this?"
All this being some more figures.

"...for the potential value of native land claims.
First, the natives have at present only unsettled
land claims and the Federal Government has
apparently not developed a taxation and royalty
system that collects very efficiently the economic
rents from delta gas."

He says:

"The Government of Canada isn't getting enough
money from this gas."

That their royalties are inordinately low and he has
apparently decided not to make any attempt to share on
the cost savings arising from the shipment of Alaska
gas through Canada. Now, once again, surely Mr.
Hollingworth and Mr. Steeves are entitled to go into
this whole question of our taxation and royalty system.
They are entitled to go into this whole question about
the extent to which Canada should share in the cost
savings arising from the shipment of Alaskan gas through
Canada and I thought -- God forgive me -- that Arctic
Gas had been telling me and the communities for a
year now how there was \$400 million floating around
that Canada was going to gain from sharing those very
cost savings anyway.

Then he says:

1 If deferral would permit native groups to achieve a
2 more effective land settlement or to use to greater
3 effect whatever landlord rights they do acquire,
4 then deferral is likely to improve the value of
5 their share of economic benefits from a pipeline."

6 Well, that's about all he's
7 got to say about it. That's the fairly tenuous
8 rope on which he's strung this whole testimony and I
9 am not convinced it can bear its weight.

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1 MR. BELL: Can I be allowed
2 to --

3 THE COMMISSIONER: By all
4 means.

5 MR. BELL: I think that
6 part of the problem we're dealing with here is Dr.
7 Helliwell's scholarly caution when he founds his
8 conclusions about these provisos, but I think that
9 the questions that you raised -- and they seemed to
10 me to be good questions -- we should give Dr. Helliwell
11 a chance to answer them. Furthermore, the figures
12 that he uses, as I understand it, he obtains from
13 the industry, and they are the best --

14 THE COMMISSIONER: He can get
15 lots of figures from the industry --

16 MR. BELL: But the point is --

17 THE COMMISSIONER: We've had
18 different estimates here.

19 MR. BELL: Yes sir, but I
20 think what he would say if he were here is that these
21 are the best figures available, the best evidence
22 available, and you can raise doubts about them.

23 THE COMMISSIONER: But then,
24 Mr. Bell, let's consider that for a moment. He says,
25 "Well, four trillion cubic feet is the best estimate
26 available," and he is --

27 MR. BELL: No, I think he says
28 21.

29 THE COMMISSIONER: Yes, I
30 know, but right at the moment you won't get anyone

1 in the Arctic Gas consortium to put the figure any
2 higher than 4 trillion cubic feet. You will get
3 people in the Foothills consortium to put it higher
4 than that, and I respect the total sincerity with
5 which each side puts forward those figures but it's
6 interesting that the Foothills figures come a lot
7 closer to the threshold figure for a single Canadian
8 pipeline project than the Arctic Gas figures do, their
9 case being that there isn't enough gas there to justify
10 a Canadian pipeline so we need a joint U.S.-Canada
11 project.

12 Now, I am certainly disposed
13 to let the Energy Board wrestle with that. That's
14 their job and you people, if I allow Dr. Helliwell
15 to give evidence, are going to spend a good deal of
16 time-- and rightly so -- going through those reserve
17 figures with him. Here he's got it, the whole print-
18 out, whatever this is. I think if you'll reflect on
19 it I think you'll see that there are reasons for being
20 dubious about the extent to which his evidence is
21 likely to advance the Inquiry in assessing this
22 whole question whether land claims ought to be settled
23 before a pipeline is built. That's what you're
24 addressing, that's the case that he's addressing and
25 I have no doubt he's a very eminent economist, and the
26 National Energy Board may decide that he's right,
27 and good luck to them all.

28 MR. BELL: Perhaps if I could
29 just respond this way, sir. We've made no secret of
30 the fact that all of our witnesses are called here

1 for the purpose of addressing the question of how a
2 pipeline would prejudice a land settlement, and as
3 part of that process we've attempted to demonstrate
4 that the kind of land settlement (using that phrase
5 subject to the evidence you heard yesterday), the kind
6 of land settlement that is being envisioned here is
7 a reasonable one and we've called evidence to show
8 that constitutionally, legally, psychologically it's
9 a reasonable kind of request to make.

10 Now we're addressing the
11 fiscal aspect of the settlement. If the government
12 comes to us and says, "You have a lovely settlement but
13 we can't afford it," then we have evidence here that
14 contradicts that, it demonstrates that what we're asking
15 for is totally within the bounds of possibility.

16 THE COMMISSIONER: But isn't
17 that a matter for negotiation between the government
18 and the native people? What good does it do you to
19 say, "Well, Dr. Helliwell appeared before the Berger
20 Inquiry and he said it's worth 4.6 billion."

21 They might say, "Who's Dr.
22 Helliwell?"

23 Suppose you said, "Judge
24 Berger agreed with him."

25 They might say, "Well, what
26 does he know about it?" They might concede that
27 they were acquainted with me but they might say, "Well,
28 what's he got to do with reserves in the delta and
29 the cost in terms of global figures of building a
30 pipeline?"

1 MR. BELL: Well, sir, it
2 seems to me then we can't address the question here
3 of potential economic benefit to the north.

4 MR. SIGLER: Mr. Commissioner?

5 MR. BELL: Unless we're
6 permitted to do it in something resembling a concrete
7 way. I mean I suppose we could call evidence where
8 people would guess what the potential economic benefit
9 to the north would be from a pipeline. But surely it's
10 more helpful to have specific numbers to talk about.
11 You can't do that unless you make some estimate of the
12 economic rents.

13 MR. SIGLER: In my comments,
14 Mr. Commissioner, I was dealing with the relevancy of
15 the subject matter. I just repeat that we feel it's
16 necessary for this Commission, this Inquiry to have
17 evidence before it as to what the economic royalties
18 or rents will be that might accrue to the Territories.
19 Without that information before this Inquiry, it will
20 be impossible for the Association that I am represent-
21 ing to know if the conditions that we'll be suggesting
22 could be met by -- realistically by the government or
23 whoever in --

24 THE COMMISSIONER: Mr. Sigler --

25 MR. SIGLER: -- after they're
26 received. Now as to the actual merits of the credibility
27 or the weight of the evidence within the subject
28 matter that this witness might provide, that of course
29 is a separate question, but I'd hope that it would be
30 up to the applicant and the pipeline companies if they

1 disagree with those figures or don't agree with them
2 to just do that, to cross-examine this witness on it
3 so this Inquiry might get some of those figures. We
4 as northerners submit really need those figures for
5 our submission to you.

6 THE COMMISSIONER: But Mr.
7 Sigler, let me put it to you this way. Just consider
8 this. Surely you and the Municipal Association can
9 come here and say, "Look, if you're going to build a
10 pipeline, this is the kind of impact that our municipal-
11 ities are going to suffer. This is the kind of expan-
12 sion of municipal services we will have to offer. This
13 is our current tax base, it's insufficient, we're going
14 to need X dollars or else you're going to create a
15 chaotic situation throughout northern communities."

16 I mean I don't know what your
17 case is but suppose it went along those lines. So you
18 say you need that amount of money. Now, having --
19 it seems to me that we're not advancing the position
20 of the municipalities by getting a lot of people --
21 Dr. Helliwell being the first -- to come in here and
22 start giving me ball park figures about the net return
23 available to Canada from this delta gas. Surely the
24 way the process ought to work is this. You give me
25 your evidence, I consider it, and I say to the
26 Federal Government, "Look, if you build this pipeline
27 here is the impact on northern communities, here is
28 what we've got to do to improve health services,
29 hospital services, police services, to provide meaning-
30 ful anti-alcohol program or whatever else." Leave

1 land claims out of this for now, just talk about that.

2 Then the National Energy
3 Board -- and I'll report to the government, I'll say,
4 "Now, that's what you've got to do if you're going
5 to build this thing."

6 Now then the National Energy
7 Board says to the government, "All right, we've looked
8 at the reserves, we've looked at Helliwell, Horte,
9 Blair, all the experts, and here's what the reserves
10 are, here is our estimate of the market price of that
11 gas, here is the cost, the unit cost of delivery, here
12 is what it's going to cost if we deliver it on the
13 Foothills models, here is what it's going to cost
14 on the Arctic Gas model, here's the net return to
15 Canada," and then the Federal Government, the people
16 elected to govern, they look at my report, they look
17 at the Energy Board's report, and they say, "Well,
18 are we going to go ahead or not?"

1 They weigh those competing
2 considerations but it is the Energy Board that has to
3 come up with the figures relating to reserves and
4 relating to the global cost of the pipeline, and then
5 the Federal Government has to consider what your
6 needs are as northerners, to cope with the impact or
7 the benefits to Canada from the pipeline, what they're
8 prepared to spend in the north to meet your requirements
9 and then they say, "Well, shall we build it? Yes or
10 no?"

11 Forgive me. If you reflect on
12 it you may decide that maybe I'm onto something.

MR. SIGLER: Although I agree with what you've stated, Mr. Commissioner, but we were planning to be much more specific in suggesting specific recommendations as to how the funds might go from the federal sources to the territorial sources, the territorial sources being the source of funding for municipalities. On that, because we will be in our panel giving evidence from Territorial Government people as to the existing method of financing between Federal and Territorial Government, and the province, municipalities have encountered as well as giving simple evidence as to increased costs, and from these problems we hope our evidence will then lead into suggesting a specific formula for providing funds directly to the Territories, the new formula being the sharing of royalties from any resource development such as the pipeline proposals, and from that point of view we will be -- we hope that we will not have to leave it at a general level to ask the Federal Government to provide more money to the Territorial, but we will suggest the method, and of course this is the basis of our whole position in this Inquiry, being basically pro-development if conditions are met. But we see the development leading to a royalty-sharing to the people of the Territories that will in turn lead to things being obtained for the Territories. For that reason -- and this is the whole basis of our presence in this Inquiry really -- we hope to be very specific on that. We hope in our first panel, for example, Mr. Dalby will be giving evidence as to proposed

1 royalties. We have other witnesses planned to propose
2 formulas for royalty-sharing. From that point of
3 view to know the total "pie", in the words of Commission
4 counsel, would be helpful, we believe to this Inquiry,
5 in assessing our recommendations as to specific
6 formulas and considering whether or not these should
7 be put forward as recommendations of the Inquiry.

8 Now it's true perhaps this
9 could be done at the Energy Board, but as a northern
10 group we've laid all our hopes on this Inquiry as a
11 local forum to which we can come to make our point and
12 not have to go to Ottawa.

13 THE COMMISSIONER: Yes.

14 MR. SIGLER: And it's not a
15 clear -- there is a bit of overlap.

16 THE COMMISSIONER: Oh, I know,
17 I know.

18 MR. SIGLER: We're hopeful we
19 can make our submissions here, as we are not parties
20 to the Energy Board proceedings.
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1 THE COMMISSIONER: Well,
2 without putting the stamp of approval on that whole
3 line of evidence you outlined, I don't see how, having
4 Dr. Helliwell's estimate really -- you're talking about
5 your requirements.

6 MR. SIGLER: I'm talking more
7 sir, on the subject matter as being relevant, will be
8 more important to our point of view in this Inquiry,
9 than to the actual evidence of Dr. Helliwell. I would
10 appreciate -- I would really need to know if this
11 subject matter is relevant because that is, as I
12 stated the general outline of what our evidence shall
13 be, and if this type of evidence isn't relevant, then
14 we would need to know now.

15 THE COMMISSIONER: But, Mr.
16 Sigler, this isn't -- it doesn't appear to me to be
17 the same thing as what you're talking about. He is
18 telling us, well, there's so much gas up there in the
19 delta, in the Beaufort Sea and this is the cost of
20 the pipeline. You're saying that here is the way the
21 municipalities should share in the revenue from this
22 resource and here's what we're going to use it for.
23 Those are -- one is sort of the requirement that you
24 have and the proposals you make to ensure you'll get
25 what you think you require and this goes to the question,
26 well, is the money going to be there and I'm simply
27 suggesting that it seems to me that this Inquiry isn't
28 going to be able to say with authority, to the federal
29 government, here are the reserves, here is what it's
30 going to cost to build this thing and here's the net

1 amount available to Canada. It's the Energy Board
2 that has to go into those reserves and they haven't
3 gone into them yet. They're going to go into them, I
4 suppose, sometime this fall or this spring and hear
5 from all the companies and what good is it to me to
6 listen to Dr. Helliwell tell me what his estimate is,
7 when he's just one of many witnesses that the Energy
8 Board has to hear and then decide? They have to
9 come up with a figure, say to the federal government,
10 all right, here's our best guess. Here's our best
11 estimate or whatever.

12 MR. SIGLER: So, instead of
13 you deciding whether or not the money will be there,
14 you're saying you might -- it's within the realm of
15 your recommendations perhaps to say, until the money
16 is there, not it should or shouldn't be, but not to actually
17 get into the matter of whether or not that money will
18 be there.

19 THE COMMISSIONER: Well that's
20 -- Yes, I suppose that's another way of putting it.
21 I'm not here to tell the federal government how much
22 gas is up there, they've got a statutory board that
23 they rely upon to do that for them and that's what
24 we're getting into there, and I rejected Mr. Mackie's
25 evidence for Foothills last August on those grounds.
26 Nothing that I've said in this impromptu fashion this
27 afternoon should be taken to exclude the line of evidence
28 you propose to bring forward, which seems to me to be
29 quite different.

30 MR. SIGLER: That, basically,

1 is my concern, that if this evidence -- they were
2 ruled out, that a month from now, that the applicants
3 wouldn't come and say that our evidence as to royalty
4 sharing is also irrelevant, because citing this instance
5 as a precedent for that.

6 THE COMMISSIONER: Well,
7 certainly that evidence, if you propose to adduce it,
8 relating to royalty sharing is not to be excluded on
9 the grounds on which it seems to me Dr. Helliwell's
10 evidence is to be excluded, but if somebody comes
11 forward with an objection on some other ground I'd
12 have to hear it.

13 MR. SIGLER: Of course.

14 THE COMMISSIONER: I'm not
15 inviting them to, but --

16 MR. BELL: Could I add just
17 one other thing before --

18 MR. HOLLINGWORTH: Just a
19 moment, Mr. Bell, if it's any comfort to Mr. Sigler,
20 I might say that our plans call for presenting evidence
21 on the economic rents available to the north, but I
22 am prepared to argue, and I will argue if you want to
23 hear from me, that that isn't what the thrust of Dr.
24 Helliwell's evidence is about.

25 THE COMMISSIONER: It seems
26 to me you may have introduced an element into this that
27 we all should think about. You say that you are going
28 to bring forward evidence relating to the economic
29 rent that will be available to the north from the
30 exploitation of this resource. That seems to me to be

1 coming fairly close to what Dr. Helliwell is trying
2 to do. I don't think Dr. Helliwell has gotten us
3 very far along that road.

4 MR. HOLLINGWORTH: Well, I'm
5 hoping that we'll get it further sir, and if other
6 parties decide that they can take offense from it, then
7 they're perfectly free to bring the same sort of motions
8 I've brought before you.

9 MR. BELL: I really don't
10 understand the objection to the evidence then.

11 MR. HOLLINGWORTH: Well, I'm
12 prepared to speak to it at some length.

13 MR. BELL: Perhaps sir, if
14 I could just make the point that I was going to make.

15 THE COMMISSIONER: Yes.

16 MR. BELL: The rents from
17 the gas and a fairly sizable portion of the pipeline
18 itself will show up in the gross domestic products
19 for the north and that, of course, becomes part of the
20 national figure of 4.6 billion, but it still relates
21 to and shows up in the gross domestic product of the
22 Northwest Territories.

23 THE COMMISSIONER: All right.
24 Let me just think out loud about that subject. If
25 you could come up with a figure that -- at the federal
26 -- that's sort of at the -- if this 4.6 billion was
27 a firm figure that everyone agreed upon, then you
28 might be able to start carving it up and say, well,
29 so much should go to the north and so on and so forth,
30 but it seems to me we would be pawing the air and

1 everybody would be throwing figures around and surely
2 your economic rent to the north, that figure can only
3 be ascertained if you have got yourself a national
4 economic rent as Helliwell has purported to do.

5 The difficulty I'm in at the
6 moment is that Mr. Hollingworth's evidence, it seems
7 to me, may well be dependent on the foundation that
8 could only be laid by evidence such as Helliwell's,
9 that's what's troubling me a little bit.

10 MR. HOLLINGWORTH: Well sir,
11 I submit it won't be and that's for you to decide
12 later on I suppose.

13 MR. GOUDGE: Sir, with respect,
14 it raises a substantial concern because, I must say,
15 I find it hard to conceive how one could deal with the
16 issue of economic rent to the north without, as you
17 yourself said, first having ascertained the global
18 picture, so to speak, and if what Mr. Hollingworth
19 is telling us is that he prefers his figures on global
20 worth, rather than Dr. Helliwell's, then I would under-
21 stand his reasons for preferring it that way, but it
22 seems to me frankly, that I would be interested in
23 knowing how one can do what he says he is going to do
24 without leading the very kind of evidence that Dr.
25 Helliwell would put before this Inquiry if he were
26 permitted.

27 THE COMMISSIONER: Well, it
28 seems to me that this is an important question. May
29 I make a suggestion? I don't want to make a ruling
30 on Helliwell's evidence, that may -- I may go farther

1 than is necessary for consideration of his evidence
2 alone. I -- I'll adjourn the argument on this until
3 let us say tomorrow morning, and counsel might consider
4 what Mr. Hollingworth has said. I'd like to think
5 about it overnight and just see if there isn't an
6 inconsistency there and if anyone wants to say anything
7 tomorrow morning at 10:00 they can. Let me just leave
8 it at that. I don't want to be unfair to --

9 MR. HOLLINGWORTH: Sir, I
10 take it your concern with my statement is that
11 you feel that our evidence must necessarily come to
12 a national figure, and then reduce it to regional
13 terms.

14 THE COMMISSIONER: I don't
15 think this necessarily, but it occurred to me you might
16 reach the figure that way.

17 MR. HOLLINGWORTH: Well sir,
18 I can tell you that that is not the case and I might
19 re-emphasize that I am not objecting to Dr. Helliwell's
20 evidence as it concerns the region, but I don't think
21 that's what he deals with and as I say, I'm prepared
22 to speak at some length on that. I don't think he
23 does that at all, and what we don't do, is we don't
24 rely on our set of Canada's reserves and requirements
25 to make projections into the future. We've come up
26 with figures using the here and now, the knowns.

27 THE COMMISSIONER: The known
28 reserves?

29 MR. HOLLINGWORTH: No, not
the known reserves, sir. The known royalty figures,

1 the known flow through the pipeline and the known
2 values, that's as of this day.

3 MR. BELL: Dr. Helliwell does
4 that too.

5 MR. HOLLINGWORTH: No, he
6 doesn't.

7 THE COMMISSIONER: Excuse me,
8 let Mr. Hollingworth continue, I think we should con-
9 sider. Can you tell us anything more about the way
10 in which your evidence will be framed beyond what you
11 said, because I'd like to think about that.

12 I see your point. You say
13 that Helliwell -- well let's -- you say that Helliwell
14 doesn't reach the question --

15 MR. HOLLINGWORTH: That's
16 right.

17 THE COMMISSIONER: -- of
18 northern reserves --

19 MR. HOLLINGWORTH: He just
20 makes a guess and you nailed it right on the head when
21 you looked at that paragraph on page 9 and he just
22 guesses. That's exactly what he does. He does three
23 things, he talks about El Paso and Arctic Gas, which
24 I think is clearly outside the terms of reference of
25 this Inquiry. Then he goes to the second point, what
26 are the economic rents likely to accrue, and he takes
27 a mythical figure of twenty-one trillion cubic feet
28 and he takes a mythical figure of \$2.25 at the Toronto
29 city gates. Then he gets a figure of 4.6 billion which
30 is just a figure that he pulled out of the air. I don't

1 care what Mr. Bell calls it, that's what it is.

2 Then, he goes to the third
3 point, and he then tries to show what the rents are
4 going to be over the next few years, but to do that
5 he uses his figures for reserves and requirements,
6 which I might say have been much maligned at the National
7 Energy Board, and then he comes up with a set of
8 figures --

9 THE COMMISSIONER: You mean
10 criticized or maligned?

11 MR.HOLLINGWORTH: Both.
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1 He then comes up with
2 figures that are really pure estimate and they put
3 aside altogether questions of what Canada's present
4 supplies of non-frontier gas is, what rates of
5 production are required. What increased production
6 facilities you would require. What exports you are
7 going into. What the reserves in the north might be.

8 It just makes all sorts of
9 assumptions that we would necessarily have to go into
10 in cross-examination if we dealt with Professor Helli-
11 well's evidence. That's the whole thing to my mind.
12 The value of his evidence, once you get down to the
13 nuts and bolts of it, is -- and once you eliminate
14 all the national consideration which are not properly
15 before you are very minimal indeed. They're a guess
16 that deferral would benefit the north.

17 THE COMMISSIONER: What
18 troubles me Mr. Hollingworth is that on the -- harkening
19 back to my colloquy with Mr. Sigler, you are saying
20 that if we could ascertain an appropriate figure
21 representing what the north ought to get by way of
22 revenue out of this oil and gas development, then
23 it is the office of this Inquiry to say to the Federal
24 Government, "That's the amount of money that can and
25 ought to accrue to the north."

26 Now, that's what you seem
27 to be saying to me and that is not the way I was
28 thinking as I expressed myself to Mr. Sigler. That's
29 a pretty important -- it may be an important issue and
30 that's why I don't want to go too far in any ruling I

1 might make about Mr. Helliwell's evidence. It may
2 be wise to defer this argument until tomorrow morning
3 and perhaps beyond.

4 Mr. Steeves?

5 MR. STEEVES: What's troubling
6 me about the discussion --

7 THE COMMISSIONER: Do you
8 follow me?

9 MR. STEEVES: Yes. Do you
10 know where I see us going? Into another Rowell -
11 Sirois Commission. Are we going to end up talking about
12 what the fiscal arrangements should be between the
13 Federal Government and the provinces and what other sort
14 of political unit is achieved by the Dene people and
15 what the distribution or re-distribution of taxing
16 power should be?

17 MR. HOLLINGWORTH: I certainly
18 don't intend to --

19 MR. STEEVES: If you're talking
20 about economic rent, that's an economist's theory.
21 When you're talking about terms and conditions in
22 relation to economic rent, you've got to talk about
23 the distribution of fiscal powers between the Federal
24 Government and the units in Canada. I say with great
25 respect, we can't get into that.

26 THE COMMISSIONER: Yes. Well,
27 you're really addressing yourself to Mr. Sigler's
28 outline.

29 MR. STEEVES: And to Mr. Bell's
30 obvious trail.

1 THE COMMISSIONER: But excuse
2 me a moment. I said to Mr. Sigler -- you know,
3 objection might be taken to his line of evidence for
4 the municipalities but we'll perhaps deal with that
5 when we reach it, if we haven't already reached it.
6 But what I'm getting at here is if you look at the
7 function of this Inquiry and the function of the
8 National Energy Board, I am here to say, "This is
9 what the impact will be on the north and if you want
10 to ameliorate it if you're going to build a pipeline,
11 here are some of the things you ought to do", and
12 it may be able to put a cost on those things that ought
13 to be done in the north. Then the National Energy
14 Board comes along and says to the Federal Government,
15 "Well, this is how much money Canada will get out
16 of this pipeline".

17 The Federal Government then
18 says, "Well, we're going to go ahead". "We'll not
19 go ahead." But, is the Federal Government looking to
20 me or to the Energy Board to tell them what kind of
21 revenue there is for Canada and for the north in this
22 pipeline? I am doubtful.

23 MR. STEEVES: When you
24 say "for Canada and for the north", it seems to
25 me you're going through it far too quickly now.

26 MR. HOLLINGWORTH: Yes sir.
27 I agree with Mr. Steeves.

28 MR. STEEVES: Let me finish
29 please.

30 MR. HOLLINGWORTH: Sorry.

1 MR. STEEVES: With great
2 respect to my friend's Mr. Hollingworth's keen sense
3 of relevance, I can't see the point in what the kind
4 case I understand he's going to present unless he's
5 going to lead into some sort of an argument which
6 again is going to touch ^{on} fiscal relations between the
7 Federal Government and the Northwest Territories or
8 whatever.

9 THE COMMISSIONER: Yes.
10 I see your point. You're flagging that and it may
11 be that when we reach it -- Mr. Hollingworth's evidence
12 on that subject -- we'll have to consider it. But
13 let me see if I can state this again because I --
14 just to take it at its simplest level, let us suppose
15 that I have said to the Federal Government, "The impact
16 on Fort Simpson will be such that you'll need three
17 more policemen"-- this is purely hypothetical and I
18 don't want anyone to think that I've reached that
19 conclusion. But, all right, then let's go into cost
20 money and let us suppose that there is no realistic
21 prospect at Fort Simpson given its current revenue
22 sources hiring those policemen. So, they would need
23 an additional grant from the Territorial Government.

24 Now, those social costs let
25 us say, -- let us call them social costs -- have to
26 be -- this Inquiry has to wrestle with them and say
27 to the Federal Government, "Here are the social costs".
28 I am putting this terribly simply.

29 Now, it seems to me that
30 it isn't then for me to say to the Federal Government

1 "And here is how you can get the money to meet them".
2 The Energy Board has to say, "Well, there is the pot".
3 The Federal Government then has to decide whether they
4 want to spend it on the things that I indicate in my
5 report they should ^{be} spent on if you're going to build a
6 pipeline.

7 Now, unless I've gotten this
8 thing the wrong end to, that's the kind of approach
9 at least to start, I think we have to take. Leaving
10 aside Mr. Sigler's references to royalty sharing and so
11 forth, which it seems to me we can cross that bridge
12 when we get to it. But what troubles me right at the
13 moment is Mr. Hollingworth's statement that they intend
14 to bring in evidence that will show how much money
15 will be available to the north.

16 Now, maybe you're right when
17 you say that you have to construct a fiscal structure
18 that will ensure that that amount of money accrues to
19 the north and to its institutions, whatever they may
20 be. You may right. It may be that that's what is
21 implied. But if we've reached that now, maybe we should
22 -- This has been a useful discussion. Maybe we should
23 think hard about it -- perhaps think a little harder and
24 a little longer than we have so far. That's why
25 I'm disposed to adjourn the consideration of the
26 motion to give you all the chance to do that and to
27 allow me to reflect on that.

28 MR. STFEVES: I suggest as an
29 example that I think -- I don't want to go back to a
30 point that we've already passed. The example -- a

1 better one than how many policemen you need at Fort
2 Simpson is some question where the costs are presently
3 shared. For example, additional hospital beds. Are
4 you going to be asked in a submission from someone
5 that your report should recommend that the cost per
6 hospital bed should be shared X,Y,Z, between various
7 levels of government? That's the morass I say we're
8 getting into once we start down this road.

9 THE COMMISSIONER: Yes.

10 MR. HOLLINGWORTH: I had no
11 intentions of getting into that kind of testimony.
12 If the implication of presenting that kind of testimony
13 is going to be that we're going to be that we're
14 going to get into constitutional sharing of revenues
15 and that sort of argument, then I'm going to withdraw
16 that evidence rather than get into that.

17 THE COMMISSIONER: Well,
18 does it make any sense Mr. Hollingworth; there is some
19 relationship between the purposes for which Mr. Bell
20 wants to present this evidence and the purposes for
21 which you intend to present your evidence on economic
22 rent. Does it make any sense to postpone the
23 consideration of the motion to exclude Helliwell's
24 evidence until you have supplied the Inquiry and
25 counsel with the statement of the evidence that you
26 intend to adduce on this so that we can consider the two
27 together because your quarrel really isn't with what
28 they set out to do with Helliwell's evidence. You say
29 they didn't get there.

30 MR. HOLLINGWORTH: Well, that's

1 right sir. I think that there's a real distinction
2 between what our proposed evidence is -- and I stress
3 that I said at the outset that it was proposed, between
4 our proposed evidence and Dr. Helliwell's evidence is
5 that he is dealing with future considerations based on
6 a number of mythical considerations that he has
7 arrived at with his long involved computer statement.

8 THE COMMISSIONER: Hypothetical
9 I suppose not mythical.

10 MR. HOLLINGWORTH: I'm
11 getting tongue-tied. We're dealing with the here and
12 now.

13 THE COMMISSIONER: Which might
14 change by the time the Energy Board hears the latest
15 evidence on gas reserves.

16 MR. HOLLINGWORTH: No, but
17 I'm not dealing with the gas reserves.

18 THE COMMISSIONER: Oh, I see.

19 MR. STEEVES: I think that would
20 be a solution to the problem as I see it.

21 MR. HOLLINGWORTH: I hadn't
22 quite finished. I say --

23 MR. STEEVES: Oh, I beg
24 your pardon.

25 MR. HOLLINGWORTH: -- that I
26 accept that suggestion except that it's not going to
27 be soon that that evidence is going to be available.

28 It's not going to be within the next few days.

29 THE COMMISSIONER: Well, Mr.
30 Bell?

1 MR. BELL: I think that if
2 Mr. Hollingworth is going to characterise and
3 comment on Dr. Helliwell's evidence, surely he should
4 be allowed to defend himself.

5 MR. HOLLINGWORTH: That's
6 the whole thrust of the argument.

7 THE COMMISSIONER: Well no,
8 there's a certain amount of license allowed to witnesses
9 and counsel and Dr. Helliwell I am certain will not
10 feel that he's been slighted because Mr. Hollingworth
11 cast dispersions on his prepared evidence.

12 Dr. Helliwell is a well
13 known figure in this field, and it's also well known
14 that he's at odds with the industry on a number of
15 issues. What I am trying to tell you people is that
16 I don't think it's up to me to sort those issues out.
17 That's for the Energy Board.

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1 MR. HOLLINGWORTH: My observa-
2 tion is this. I don't think it's any answer to a
3 motion of Dr. Helliwell's evidence to wait and see
4 what the Foothills evidence is to see what they want
5 to put in. Surely the answer is that Foothills evidence
6 gets thrown out on the same basis as Dr. Helliwell's
7 does, and I'm quite prepared to live with that.

8 THE COMMISSIONER: Well, sir --

9 MR. STEEVES: That's an
10 admission that he wishes to call exactly the same
11 evidence, sir.

12 MR. BELL: Can I make one
13 final observation, sir? I gave my solemn promise to
14 Anne Forrest that we'd reach her today and I fear for
15 my credibility, if not for my physical safety if that
16 doesn't happen, so I'd like to suggest that we adopt
17 your previous suggestion and we adjourn the debate
18 until tomorrow.

19 THE COMMISSIONER: Well, I'll
20 adjourn consideration of the motion until tomorrow
21 morning and if anyone wants to say anything then at
22 10 A.M. they may. I must say that I thought I was
23 doing Foothills a favor by making the suggestion I
24 did, and if Foothills isn't interested in adjourning
25 the consideration of the motion until we see their
26 evidence, and if no one else is, then if no one wants
27 to say anything tomorrow morning I'll be prepared to
28 rule soon after that.

29 MR. HOLLINGWORTH: Well, I
30

threw out the statement, sir, that it wasn't going to be soon that I could come up with our evidence on this point, and I expected to get some response from Mr. Bell as to whether he is prepared to wait that long in putting Dr. Helliwell forward.

THE COMMISSIONER: Well, he'll still be here, and if the whole ball of wax goes in he'll, I'm sure, propel Helliwell forward. I don't think that's --

MR. BELL: I have to consult Dr. Helliwell, of course.

THE COMMISSIONER: Well, he'll -- well, let's -- could we adjourn for coffee, Mr. Bell, and then hear Miss Forrest?

MR. BELL: That would be ideal.

(PROCEEDINGS ADJOURNED AT 3:30 P.M.)

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

MR. GOUDGE: Sir, before we begin with Miss Forrest, I hesitate to do this but it will take only a moment. Mr. Sigler^{advised} me at the break that he won't be able to be here tomorrow and would like, if he could, to leave just a couple of sentences more with you, sir, on the issue we were talking about.

THE COMMISSIONER: Go ahead.

MR. SIGLER: Thanks for your indulgence, sir. As I said, I won't be able to be here tomorrow, I'll be out of town. In speaking to the motion I just wanted to clarify one point that, the analogy you made of the policeman in Fort Simpson is bothering me a little bit, and I just wanted to clarify to you that in our plans for evidence we are talking more than our one-time extraordinary funding that will be necessary, but we will be -- we were planning to present a case for an ongoing sharing of resource royalties to accrue to the Territories. It has nothing to do, really, with our extraordinary costs involved with pipelines. This is more than a cost recovery program, but sort of this is our kind of a land claim that we're proposing in terms of a land claim to include all of the people of the Territories. Perhaps a more appropriate analogy would be a Heritage Fund sort of concept, like there is in Alberta, as opposed to a one-shot funding of extraordinary costs. That's the type of evidence we were planning to include in our case to the hearings, and the type of

Miss A. Forrest
In Chief

1 recommendations we had in mind on that.

2 THE COMMISSIONER: O.K.

3 MR. GOUDGE: Subject to that,
4 sir, we can, I take it, put the motion over until
5 ten o'clock tomorrow morning?

6 Finally, Mr. Bell, I take it,
7 sir, we can turn to the long-suffering Miss Forrest.

8 MR. BELL: I think that you'll
9 find her evidence has improved with the wait.

10
11 MISS ANNE FORREST, sworn:

12 DIRECT EXAMINATION BY MR. BELL:

13 Q I don't suppose I have
14 to introduce you to Miss Forrest again, sir. If I
15 could just go through your C.V. for -- briefly, Miss
16 Forrest. You are at present a research assistant at
17 the Ontario Institute for Studies & Education?

18 A Yes.

19 Q You have a Bachelor of
20 Science from the University of Toronto?

21 A Yes.

22 Q You worked as a research
23 assistant for Professor Laxer on his book,
24 "Canada's Energy Crisis,"
25 in 1973 and 1974?

26 A Yes.

27 Q And from 1974 until the
28 present or until recently, you were engaged in land
29 claims research for the Indian Brotherhood of the
30 Northwest Territories?

Miss A. Forrest
In Chief

A I was.

Q And you're the author
of the two reports listed in the appendix to the
summary of your evidence?

A Yes, I am.

Q Would you please proceed
with your evidence?

A The native people in the
north of Canada assert that they wish to retain control
over their historic lands so that they, rather than
the multinational corporations or the Federal Government
can determine the pace and kind of development which
takes place. The multinational corporations and the
government wish to build the pipeline. The native people
say, as a minimum, that this must not be allowed to
happen until there is a land settlement which gives
them political control, including presumably a very
substantial, if not decisive, input into deciding
whether a pipeline should be built at all. The corpora-
tions, and at least some government officials, tend to
reply that a pipeline can be built without prejudice
to the land claim.

The question of the relation-
ship between oil and gas developm ent and land settlem-
ents can be looked at by considering the case of Alaska.

On the basis of my study of
Alaska, let me advance the following proposition:

The whole process of economic development on
native-owned lands by multinational corporations
particularly oil and gas companies and mining

Miss A. Forrest
In Chief

companies, is prejudicial to a just and equitable settlement of native land claims. The beginning of resource development tends to set in motion a self-fulfilling process which determines the nature of the land settlement and consequently the range of economic development possibilities for the native people of that region in the future. Once these powerful companies have an interest in the development of a region, a land settlement giving the native people effective control over the development of resources is improbable, to say the least.

In my view, this proposition does indeed describe what happened in Alaska. Once the oil industry became involved with oil production on the North Slope, the natives lost control of their historic lands. If the industry could have built a pipeline without a land settlement, it would have. It couldn't so it lobbied for a settlement. When a land settlement was eventually reached, it was severely constrained by the necessity of it being acceptable to the oil companies. Indeed, the companies supported the settlement, which would have been a contradiction in terms if it had been a settlement giving the natives effective control. Of course, the Alaska settlement did not do that; indeed, prior to the settlement the Alaska Federation of Natives agreed to the building of the pipeline once the land claims were settled, notwithstanding steadfast opposition to the pipeline in the villages. The settlement emphasized

Miss A. Forrest
In Chief

money, not land, and excluded the natives from any effective control over the development of the North Slope oil and gas. Predictably, the settlement has led to even more rapid resource development than before. The newly formed native organizations have been left with little alternative but to become involved on the companies' terms or risk being totally excluded. This is not much of a choice.

Any overall view of the Alaskan settlement, and its implications for native people elsewhere, must be a mixed one. On the one hand it has made nickel and dime land deals with North American native people obsolete. If native people agree to sell their lands, they now get much more money; given the poverty of native people and the virtual theft of their lands in the past, one cannot lightly dismiss this. On the other hand, the Alaskan settlement fits the historic pattern of extinguishing aboriginal title. Its message is that native people must sell -- and of course what they are being made to sell is their land, their very birthright and being.

The Mackenzie District is not Alaska, if for no other reason than the very different ratio of native to non-native people; a majority has rights, one might hope, less easily extinguished than a minority. Nevertheless, there would seem to be a clear moral from the Alaskan case for native people here.

A land settlement that permits non-renewable resource development to proceed more or

Miss A. Forrest
In Chief

1 less unimpeded, or even at an accelerated rate, is what
2 is in the cards. If native people are not to get this
3 kind of settlement -- and the Dene have said very
4 clearly they do not want it -- then every effort must be
5 made to avoid prejudice to their claim. Seen in these
6 terms, starting a pipeline prior to a settlement is
7 simply to prejudice the settlement beyond redemption.
8 Under the best of circumstances the native people are
9 up against very powerful forces. To let a massive
10 project like a pipeline proceed prior to a settlement
11 is simply in one fell swoop to declare the native
12 people to be the losers.

13 Let me now look in somewhat
14 greater detail at the Alaskan case.

15 For many years the native
16 peoples of Alaska had tried to have their land claims
17 recognized and settled by the Federal Government. Until
18 recently, the government was never very interested.
19 The only land settlement ever made in Alaska was for
20 the Tlingit and Haida Indians living in the Panhandle
21 area of the state. Claims to the rest of Alaska
22 went unsettled.

23 Although the government was not
24 prepared to recognize the native peoples' claims, neither
25 was it prepared to dismiss them. For over 100 years the
26 native peoples were protected in their claims, at least
27 to the extent of preserving the status quo. Legislative
28 recognition came first in the Organic Act of 1884. The
29 Act reads in part:

"Indians ... shall not be disturbed

Miss A. Forrest
In Chief

1 in the possession of any lands actually in
2 their use or now claimed by them."

3 Native land claims were once again protected in the
4 Alaska Statehood Act of 1958 which read in part,

5 "The state and its people do agree and declare
6 that they forever disclaim all right and title
7 to any lands or other property not granted or
8 confirmed to the state ... and to any lands
9 or other property (including fishing rights)
10 the right or title to which may be held by
11 any Indians, Eskimos, or Aleuts."

12 This latter Act, which changed
13 the status of Alaska from a territory to a state,
14 entitled the newly created state government to choose
15 102 million acres of vacant public land to be placed
16 under state ownership. In the event that any of this
17 land was later sold to a third party, the state (by
18 provision of the Statehood Act) retained subsurface
19 title.

20 The intent of these Acts
21 was not to confer recognition of ownership of certain
22 lands to native peoples, but to retain the status quo
23 on native claimed lands in Alaska. That is, these
24 Acts recognized the natives' interest in the land as
25 a legitimate ownership interest, the extent of which
26 was to be sorted out sometime in the future. In the
27 meantime the Federal Government meant to protect native
28 claimed lands from selection by Alaska. The Statehood
29 Act specifically states that land selections were to be
30 made from:

Miss A. Forrest
In Chief

1 "public lands of the United States in Alaska
4 which are vacant, unappropriated, and unres-
served,"

4 a stipulation which should have protected native
5 claimed and occupied lands.

6 Yet among the state's first
7 choices were parts of two native villages, Minto and
8 Tanacross. (The State Government even had the
9 effrontery to sell "Wilderness Estates" taken from the
10 land surrounding Tanacross at the New York World's
11 Fair). Prudhoe Bay, though traditionally used by the
12 Inuit, was also selected straight away. Before the
13 state could be stopped, they had chosen lands which had
14 completely surrounded 17 native villages.

A. Forrest
In Chief

1 Not until Atlantic Richfield
2 made its major oil strike on the North Slope in 1968
3 did a land settlement of native claims become essential.
4 On the North Slope in particular where no one but the
5 Inuit had ever lived, the natives' overriding claims
6 of ownership complicated and obstructed the extraction
7 of resources from vast areas of land.

8 The State government was
9 eager to have the oil on the North Slope produced and
10 a pipeline built to bring it to market but only
11 under its direct control. In an effort to gain control
12 of the North Slope resources and freeze the natives
13 out, Alaska claimed the North Slope as part of its
14 statehood entitlement. The natives were going to
15 have to suffer through all the adverse social aspects
16 of rapid resource development without any hope of
17 receiving a dollar for their rich resources.

18 As resource exploration
19 proceeded at a furious pace all over Alaska, the State
20 Government continued to select lands for their resource
21 potential, ignoring the provision that the lands be
22 "Vacant, unappropriated and unreserved" and completely
23 disregarding native land claims.

24 The natives were outraged as
25 many villages faced total expropriation of their
26 historic lands. They protested to the Bureau of Land
27 Management, a Federal agency which passed off their
28 complaints as unfounded without even checking into them.
29 Finally, the natives demanded action from the Secretary
30 of the Interior.

A. Forrest
In Chief

As the natives were gathering strength for a long fight with the State Government and the oil companies, other obstacles began to appear in the way of the proposed pipeline to bring oil overland from the North Slope to the ice free port of Valdez on the south coast.

In 1966, Secretary of the Interior, Stewart Udall, imposed an "informal" land freeze on Alaska which was in theory, designed to prevent State land selections and resource developments from taking away all the natives' lands. Neither this informal freeze, nor the later one in 1968 referred to by Alaskans as the "super-freeze", offered much protection to the natives in their land claims. In fact, what the land freeze effectively did was to give legitimacy to those State land selections, including the entire North Slope which had been made before the freeze was instituted. Since these lands, for the most part, had been chosen irrespective of native claims of ownership and since the land was temporarily unfrozen in 1969 to allow for the approval of the pipeline corridor right-of-way, the land freeze did little to slow down the pace of development.

As Secretary Udall recognized, the question of native land ownership had to be resolved immediately. It was no longer possible to go on ignoring the situation as the government had in the past. An open fight was shaping up with the State Government and the oil industry on one side and the natives on the other. Furthermore, the natives

A. Forrest
In Chief

1 intended to take the State and the oil companies to
2 Court, threatening to tie^{up} the development of Alaska
3 in litigation for years.

4 In an attempt to resolve these
5 differences and get the North Slope oil into produc-
6 tion, a series of Congressional and Senate hearings
7 on native land ownership was held in Alaska in the
8 late 1960's. For the first four years, little was
9 accomplished: testimony was taken, affidavits accepted,
10 bills drafted. But then the session would run out and
11 all the Congressmen and Senators would return home
12 only to start all over again in the next session.

13 All this activity was no
14 more than a minor obstacle in the path of the pipeline.
15 When Trans-Alaska Pipeline Systems applied for a
16 right-of-way to construct a buried hot-oil pipeline
17 800 miles across Alaska pretty well everything was
18 under control. While the native were the only organized
19 group in opposition, they wielded virtually no
20 political power. At the same time, white Alaskans
21 -- with a typical white settler colonist mentality --
22 were lined up overwhelmingly on the side of the
23 corporations against the native Alaskans.

24 Within a few months, three
25 injunctions against further construction of the
26 pipeline were issued. First, the natives of Bettles
27 and Allakaket requested an injunction enjoining the
28 Interior Department from issuing a permit for further
29 road construction while the natives sued TAPS for breach
30 of contract. Immediately following that, the people of

Stevens Village in the pipeline corridor area claimed the land, forcing the courts to issue a second injunction against construction until the question of ownership could be settled.

Finally, a coalition of environmental and conservation groups requested a third injunction against the pipeline, pointing out that the proposal to bury a pipeline containing oil at 160°F through permafrost was both mad and dangerous. Their lawyers claimed that the right-of-way application violated the 1920 Mineral Leasing Act because the corridor area was too wide and the 1969 National Environmental Policy Act since no extensive studies of the potential environmental impact had been done.

In the face of all this opposition, the oil companies wisely decided to postpone the beginning of construction, disregarding Governor Miller's personal pleas that all sane Alaskans understood the importance of the pipeline to Alaska's future and wanted construction to begin immediately. After considering the problem, the companies decided that the quickest way to get the North Slope oil to market was to support the natives in their demand for a land settlement and to mend bridges with the environmentalists.

The effect of this decision was to bring a powerful and diverse coalition together in support of a land settlement. In addition to the oil companies (which made the lobby a political force to be reckoned with), the coalition included

1 environmental and conservation groups, civil rights
2 organizations like the NAACP, the AFL-CIO, and
3 other Indian groups in the United States. Initially
4 stunned by oil industry support for the natives,
5 Alaskan businessmen had no alternative but to
6 acquiesce, to cease being so vocally anti-native and
7 to do their best to get a piece of the action.

8 Although there was a consensus
9 amongst these groups that there should be a land
10 settlement, there was no consensus as to what form
11 that settlement should take. On this question, the
12 diversity of interests within the coalition proved to
13 be a liability for the natives since the range of
14 views in the lobby extended all the way from the
15 position of the environmentalists which was no pipeline
16 under any circumstances to the oil industry, which
17 took the position that there should be a pipeline
18 regardless of consequences.

19 The environmentalists supported
20 the land claims as a way of blocking further action
21 on the pipeline because they wanted to preserve
22 Alaska as a virgin wilderness for all time. The conserva-
23 tionists were more interested in the animals than in
24 the people and eventually opposed giving the natives
25 the right to hunt and fish except under severely
26 restrictive regulations ignoring the importance of
27 country food to the survival of native communities.
28 The NAACP wanted civil rights of the natives protected
29 but was also interested in ensuring equal opportunity
30 for non-whites and women working on the pipeline. The

A. Forrest
In Chief

1 AFL-CIO was determined to get the high paying pipeline
2 jobs for its members during a time of growing unemploy-
3 ment. Finally of course, the oil industry wanted to
4 produce the North Slope oil with as little interference
5 and as few royalty and taxation claims as it could
6 possibly get away with. In particular, the industry
7 was opposed to any settlement which would have given
8 the natives outright ownership of the land and allowed
9 them considerable say in the development process. They
10 wanted the natives to settle their claims with money
11 not land, so that the oil companies could get on with
12 developing the nation's energy resources as they saw fit.

13 There is little doubt that the
14 active support of the oil industry for the principle
15 of a land settlement was a decisive factor in getting
16 the State of Alaska and the Federal Government to
17 negotiate seriously with the natives. Once the oil
18 industry became involved, a settlement of land claims
19 which had been frustrated for over a hundred years
20 was accomplished in 18 months. However, to get the
21 industry to take a position of support meant that it
22 had some direct interest in the outcome. In short, it
23 was only because development had started on the North
24 Slope and because some extraordinarily valuable resources
25 were at stake that the natives were able to get a land
26 settlement of any sort.

27 But, precisely because
28 development had already begun and because some
29 politically powerful companies had an interest in
30 that development continuing on their terms, the final

A. Forrest
In Chief

1 settlement of native land claims did not offer the
2 native peoples any alternative economic development.
3 The Alaskan settlement does not permit the native
4 peoples to expand their own ideas about economic
5 alternatives and leaves them as much tied in with the
6 wage economy and corporate notions of economic development
7 as they ever were before, if not more so.

8 This is not what the people
9 of the Mackenzie River want for their future.

10 The Alaska Native Claims
11 Settlement Act extinguishes all aboriginal titles or
12 claims of title in Alaska in exchange for 40 million
13 acres of land and \$962,500,000. It is a final and
14 permanent settlement. It cannot be used as a precedent
15 for the re-opening of previously negotiated settlements.

16 All native peoples in Alaska
17 benefitting from the Act lose their special Indian
18 status in 1991. From that time, they will have no
19 rights or privileges beyond those of other American
20 citizens. The Federal Government will have terminated
21 its special responsibility for protecting Indian peoples
22 in Alaska.

23 By the provisions of the
24 settlement, Congress gave the natives 40 million acres
25 of land. The natives gave up their historic claims
26 to ownership of the remaining 335 million acres in
27 Alaska. In the same Act, 80 million acres of land
28 were added to National Parks, the Wildlife Refuge
29 System, etc.

The Act established a method by

A. Forrest
In Chief

1 which the natives must choose their land. 22 million
2 acres were allotted to villages on the basis of
3 population. These lands were to have been selected by
4 the end of 1974. Another 16 million acres were designat-
5 ed as regional land and distributed according to a land-
6 loss formula whereby regions giving up claims to the most
7 amount of land received a larger share of the 16 million
8 acres in return. Selections of these lands was to have
9 been completed by the end of 1975. The remaining 2
10 million acres were reserved for special circumstances:
11 historic places, graveyards, native allotments and
12 others.

13 The rules governing native land
14 selection excluded certain lands, namely

15 "All prior conveyances of public land and water
16 areas in Alaska or any interest therein, pursuant to
17 Federal law and all tentative approvals pursuant to
18 Section 6(G) of the Alaska Statehood Act."

19 All told, this prevented the natives from selecting over
20 100 million acres. Furthermore, these acres, particularly
21 those claimed by the State of Alaska, had been chosen
22 primarily for their resource value. Included were most
23 of the known petroleum producing areas like Cook Inlet
24 and Prudhoe Bay and any other known mineral lands the
25 State could find. In many cases, the State of Alaska
26 chose for its entitlement lands which completely surround-
27 ed many native villages. In addition, the Act provided
28 five year protection for "valid but uncertified mining
29 claims". Since all native selections must have been
30 completed within four years, this put 14 million acres of
highly valuable land beyond the natives' reach.

Miss A. Forrest
In Chief

In fact, if the natives were able to select land containing either mineral or hydrocarbon deposits it was by accident, rather than by design of the Settlement Act. In order to find these potential resources the natives were forced to explore the land themselves for minerals, costing them thousands of dollars in consultant's fees and often forcing the newly formed regional corporations to accept joint venture arrangements with multinational energy and mining companies prematurely.

Under circumstances where the companies have all the expertise and most of the money, the company executives run the show as they see fit, making only minor concessions to the natives on employment and royalties.

The native villagers who spoke to the congressmen and senators at the hearings said repeatedly that the settlement should give them title to their land but the native people here, they did not want to extinguish their land rights for money. In the words of one man,

"We have never wanted money as such, we wanted land, because out of the land we could make our money. We would protect our subsistence living, and we would still have our heritage."

What they ended up with was a paltry amount of land relative to their needs, much of it was of poor quality, far away from the villages. In one region, Chugach, where state selections had

Miss A. Forrest
In Chief

1 taken up all the land available, the regional corporation
2 was allotted deficiency lands by the Secretary of the
3 Interior, which turned out to be half glacier.

4 Since special status for
5 native peoples in Alaska was abolished by the Act, the
6 natives cannot look forward to the state government
7 allowing them broader hunting and fishing rights than
8 the white Alaskans have. The prospect is that sub-
9 sistence hunting and fishing activities will be further
10 limited in the future because of competition from
11 white sportsmen. With so little alternative employment
12 in native villages, where unemployment rates run as
13 high as 90 percent of the working age population, hunting
14 and fishing for food is vital. In the past it has been
15 the most reliable part of the village economy. In
16 communities where cash incomes are very small, fish
17 and game are important for survival.

18 "Two moose will net 2,000 pounds of meat",
19 says one native.

20 "The cost of meat in Galena is \$2.00 a pound.
21 For 2,000 pounds, that's \$4,000.00. That
22 takes away the average income for Galena."

23 The 40 million acres now
24 owned by the natives is not enough for them to continue
25 to live off the land to the extent they require.
26 Although no comprehensive study of native land use was
27 ever conducted, it was accepted as an undisputed fact
28 that 60 million acres was the absolute minimum. Said
29 Senator Harris,
30

"It is unchallenged that the natives are now

1 using a minimum of 60 million acres, which is
2 less than 17 percent of the land to which
3 they have a valid claim. We know that the
4 native people need vast acres of land if they
5 are to continue their traditional way of life."

6 Sixty million acres was established as the amount of
7 land in use by the Federal Field Committee for
8 Development Planning in Alaska, in a study called,
9 "Alaska Natives and the Land", published in 1968.
10 This averages to about 1,600 acres of land per person
11 using the 1970 census figures.

12 In the region of Doyon, Fortune
13 Magazine stated that a village of 200 people had
14 traditionally lived off an area of 2,000 square miles.
15 That is an average of 6,400 acres per person. The
16 settlement allows for much less than 1,000 acres
17 per person, even supposing that the entire 40 million
18 were used exclusively for subsistence living. In fact,
19 a good deal of that land will be spoiled for hunting
20 and fishing once mining, hydro-electric, or oil and
21 gas developments are started on it. Consequently,
22 the regional corporations are ^{being} forced into an impossible
23 dilemma. Even without resource development the
24 people will be short of land for traditional purposes,
25 and once the projects begin, the old lifestyle will
26 become virtually impossible, even though it may be
27 what the people want.

28 The problem of regional land
29 selection is complicated even further by the checker-
30 board pattern of selection required by the Act. The

Miss A. Forrest
In Chief

villages may choose their land where they like, because presumably, villagers will be primarily interested in taking land close to the village, valuable for wildlife resources. The regional corporations, on the other hand, are assumed to be on the lookout for land with timber, mineral or oil and gas potential. The land is divided like a checkerboard and the region may choose only the even numbered townships in the even numbered tiers and the odd numbered townships in the odd numbered tiers, meaning that the natives can never gain complete control of a valuable resource.

Even on the land they own the natives cannot control the pace or the kind of development which takes place. Consequently, the natives cannot insulate themselves from unwanted resource development projects.

The ultimate problem faced by the native peoples, is a likelihood of their losing control over their lands completely in 1991, when all the stock in the regional corporations becomes negotiable. It is quite conceivable that conglomerate resource firms, operating in Alaska would be willing to make a generous offer to take control of these potentially resource rich, but cash poor corporations. Already there is a move towards individualizing land held by the village corporations. Many of the villages are finding the burden of operating a business corporation too large. The regional corporation will be able to prevent the distribution of these lands for only five years. The risk here is that the land, once

Miss A. Forrest
In Chief

1 individualized, will be alienated into the hands of
2 non-natives.

3 In 1991, at the end of the
4 tax free period, even a nominal tax of \$1.00 per acre
5 could wipe out these regional corporations or force them
6 to throw in their lot with some well established
7 resource company. The cash settlement involved amounts
8 to almost 1 billion dollars over a 12 year period.
9 This is made up of 462 and a half million dollars
10 to be paid by the federal government, plus a two
11 percent royalty on the value of resources produced in
12 Alaska to a maximum of 500 million. While this may
13 sound like a generous settlement, it is not, either
14 in terms of the actual value of the land to the
15 developers or to the enormity of the task that would
16 be required to give native Alaskans a standard of
17 living equivalent to that of the average white American.

18 The major innovation introduced
19 to native life by the settlement, are the corporations
20 established to handle the money and the land. Since
21 Alaska has traditionally had 12 distinct groups of
22 Indians and Inuit, each with their own language and
23 customs, 12 regional corporations were created. There
24 is also a thirteenth corporation which handles money
25 but not land for Alaska natives who no longer live
26 in the state. Besides these thirteen regional corpora-
27 tions there are over 200 village corporations.
28 Villages had the choice of incorporating as either
29 profit making or non-profit making corporations whereas
30 regional corporations were required to become profit

Miss A. Forrest
In Chief

1 making corporations.

2 Not all the natives are agreed
3 that the new corporate structure is the best. Said
4 one woman,

5 "Our own village corporation was born from
6 a white father's blood; it is based and created
7 for money. A concept which white people never
8 could control, but they passed it on to us."

9 Presumably, because Congress
10 could not think -- could think of nothing more innovative
11 the natives are now stuck with profit making companies,
12 operating in the same business framework as General
13 Motors or Exxon.

14 Since corporations have seldom
15 been responsive to the needs of ordinary white people,
16 there is no reason to believe that they can be any
17 more flexible in the case of natives. Indeed, the
18 corporation, as a hierarchical and one-dimensional
19 institution, would seem to be a sharp break with the
20 relatively equalitarian and classless traditional native
21 society.

22 With such a proliferation of
23 corporations a co-ordinating body is obviously needed.
24 The central organization of the native people has been
25 the Alaska Federation of Natives. The natives naturally
26 assumed that the A.F.N. would continue performing
27 this role after the settlement had been legislated.
28 To this end, native leaders asked Congress to create
29 the 12 regional corporations to look after regional
30 differences, but also to have one central entity, to

Miss A. Forrest
In Chief

plan priorities and help the various regions work together. Fear of a gigantic native-run corporation, however, blocked the creation of a co-ordinating corporation, leaving a chaotic situation in which regional differences and historic antagonisms had been exacerbated. Already there have been conflicts amongst the regional corporations vying for advantage. To quote the Alicia Patterson Fund newsletter, January 1972,

"Now many observers predict a power struggle between the regions with survival of the fittest. Native leaders originally asked Congress to establish a state-wide corporation, but white opposition, fearing such a structure would wield too much power, successfully lobbied to break it into independent regions."

Congress attempted to equalize the benefits from resource developments somewhat by requiring all regions to share 70 percent of their revenues from resource development with the other regions. Whether this revenue is gross or net is a thorny issue, but some regions are nevertheless, disadvantaged. Calista, for example, has little resource potential, little money and a large number of villages. Compared with the Arctic Slope Native Regional Corporation, which has significant oil and gas potential and a sparse population in very few villages, Calista will obviously be the poor relation.

The initial period of implementing the Act, then, has given the natives a great

Miss A. Forrest
In Chief

1 many problems. Many of the basic weaknesses, of the
2 settlement are becoming apparent, the restricted land
3 base, no special hunting and fishing rights, the ambiguous
4 wording of many clauses, endless litigation, and
5 the complicated and difficult to manage corporate
6 structure. To be fair, however, many natives still
7 feel there is cause for optimism, in spite of it all.

8 Conclusions. It is difficult
9 not to conclude that what is presently happening
10 in Alaska is yet another in a long list of examples of
11 metropolitan controlled development of a resource rich
12 hinterland. For a while everything booms, but once
13 the non-renewable resources are depleted, impoverish-
14 ment can be expected to return.

15 As for the original inhabitants
16 of Alaska, it is already clear that they will be the
17 last to benefit. The development model at work in
18 Alaska is a trickle-down model, not the community based
19 development model. It is true that the money trickles
20 down -- it is true that the money that trickles down
21 could be used for community development projects,
22 though that would not change the structural reality
23 of the direction of the development. The possibility
24 for native-controlled community centered economic
25 development exists in principle, but its potential may
26 well have been buried by the structure of competitive
27 regional corporations and the aura of big business
28 these institutions encourage.

29 Alaska natives have been
30 co-opted into thinking in terms of large scale, joint-

Miss A. Forrest
In Chief

ventured types of activities. Small, community-owned and operated enterprises designed to serve local needs, require one to think in a radically different way.

Miss A. Forrest
In Chief

1 As we have seen, the Alaska
2 settlement comes down clearly on the side of money,
3 not land. It remains to be seen whether the money will
4 prove sufficient to provide the capital needed to
5 create full employment for native people; involvement
6 of the native corporations in resource projects sucks
7 up large amounts of capital and promises few jobs.

8 There is no doubt that
9 powerful forces were brought to bear on the Alaskan
10 natives that biased the settlement away from land and
11 towards money. Realistically, however, we must recogn-
12 ize that the conflict between land and money was not
13 entirely forced upon the natives by outsiders. The
14 debate also rages within the native community. The
15 nature of the land settlement, however, makes the out-
16 come of that controversy a foregone conclusion. There
17 can be no doubt that the Alaska Native Claim Settlement
18 Act was designed to bring the natives into the main-
19 stream of modern American capitalism.

20 It remains to be seen whether
21 it will work on its own terms. Certainly, many Alaskan
22 natives and their leaders remain hopeful. My analysis
23 has led me to a less optimistic conclusion, but in the
24 final analysis it is the views of Alaskan natives them-
25 selves that matter. Nor can one easily dismiss the view
26 that the settlement was the best that could have been
27 gotten, and that some settlement is better than no
28 settlement.

29 Finally, Mr. Commissioner,
I have chosen not to speak to a range of specific

Miss A. Forrest
In Chief

1 impacts of the pipeline, such as inflation, crime,
2 housing shortages and so on, important though these are.
3 Rather I have focused on the neglected but central
4 question of the relationship between the process of
5 development itself and the nature of the land settle-
6 ment. My conclusion on the basis of my study of
7 Alaska, is that the power of multinational corporations
8 and compliant governments is such that it is extremely
9 difficult for native people to get the kind of land
10 settlement that they initially say they want. This is
11 so even if the project proper is not allowed to start
12 until there is a settlement. It would seem to follow
13 that actually to start the project proper before a
14 settlement, which was done in James Bay and could
15 happen here, is simply to compound the difficulty
16 facing native people and to risk further and possibly
17 irreparable damage to their rights and their interests.

18 MR. BELL: Mr. Commissioner,
19 a copy of Miss Forrest's study in evaluation of the
20 Alaska Native Claims Settlement Act has been filed with
21 the Inquiry.

22 THE COMMISSIONER: Miss Forrest,
23 there can be no doubt that this Alaskan settlement was
24 the most generous one made with native peoples in
25 North America, up until the time of the James Bay
26 settlement, and there's no doubt about that, is there?

27 A No.

28 Q You've mentioned the
29 checkerboard pattern of land selection for the
30 regional corporations. I was over there last June and

Miss A. Forrest
In Chief

1 I noticed that, too. You say that that was a reasoned
2 attempt to preclude the native corporations gaining
3 exclusive control of any resource such as a copper
4 deposit or an oil discovery and so on.

5 Now is that something that
6 is based on statements by members of Congress, or is
7 it an inference you've drawn? Would you elaborate on
8 that?

9 A That was my conclusion.
10 Basically I came to that conclusion because I could
11 see no other logic for it.

12 Q Well, everybody chooses
13 on the checkerboard basis, now the state does too.

14 A Yes, but I would assume
15 that the natives have different rights than the state
16 does in this respect.

17 Q When I was over there I
18 talked to somebody in the government who had been
19 engaged in preparing a land use plan relating to native
20 lands, wilderness, development, so on, and this was
21 a four-year program. They had gotten two years along
22 with the plan when a settlement was interposed, and
23 a checkerboard laid on the whole state. His land use
24 plan became utterly irrelevant. That's why I remember
25 it. It's an intriguing thing that they would use that
26 checkerboard.

27 A Could I just say something
28 about that?

29 Q Yes.

30 A Even if my assumption is

Miss A. Forrest
In Chief

incorrect, that that's why it was done, I would point out that the result of it is that the natives cannot control development on the land that they do own as a result of that checkerboarding.

Q Yes, I see that point. Mind you, those pieces on the checkerboard are still pretty big, that's a big state.

A Yes.

Q One other thing. You said at the bottom of page 13, you said:

"Already there is a move toward individualizing land held by the village corporations.

Many of the villages are finding the burden of operating a business corporation too large. The regional corporation will be able to prevent the distribution of these lands for only five years. The risk here is that the land, once individualized, will be alienated into the hands of non-natives."

Now, how does that work? If a village votes -- if the members of a village vote to allot parcels of land they own to individual natives, I take it they can do that, is that the way it will work?

A No, until this year, I guess, five years from 1971, the regional corporation can veto almost anything that the village wants to do that they think is unwise. Following that, yes, that is true, they can vote.

Q So the veto the regional corporations have runs out this year. That's --

Miss A. Forrest
In Chief

1 A As I understand their
2 power over the villages.

3 Q Then if the village
4 corporations opted to allot lands to individual
5 natives, the natives could then alienate those lands
6 to white people.

7 A That's right.

8 Q I see, and --

9 A I was surprised about
10 that outcome myself. I assumed that because the
11 regional corporations were protected, each native
12 person who was alive on the day that the Act was
13 legislated is entitled to 100 shares of a regional
14 corporation, and those shares cannot be alienated until
15 1991. Now, I drew from that that that means all the
16 assets of the settlement could not be alienated into
17 the hands of non-natives until 1991, but I discovered
18 differently when I was speaking to some officials of
19 Doyon. They are quite concerned. Apparently this has
20 been -- it has been brought up many times at the
21 regional meetings that certain villages want to indi-
22 vidualize the land holdings, and they have had -- you
23 know, they've tried to persuade but have said in the
24 absence of persuasion that you can't do it.

25 Q You said that there is
26 no statewide central corporation at the top of this
27 pyramid. It's a pyramid without an apex, and once
28 again is that -- was that a recent decision by Congress
29 when it enacted the legislation, or was it contrary
30 to the wishes of the natives, or what? Can you tell me

Miss A. Forrest
In Chief

1 any more about that?

2 A It was very much con-
3 trary to the wishes of the natives, I was reading
4 the transcripts, it seems that the natives were
5 assuming that the Alaska Federation of Natives would
6 be that centralized body, and what they were concerned
7 about and submitted to Congress repeatedly was that
8 there should be these regional corporations in
9 addition. In other words, what I'm trying to say is
10 they feared that there might only be one corporation and
11 so they lobbied very heavily to have regional corpora-
12 tions as well that divide the state up into these twelve
13 different ethnic regions. It seems to have come --
14 they were quite surprised and not very happy about the
15 fact that A.F. of N. lost its co-ordinating role, its
16 official co-ordinating role. The A.F. of N. does
17 have an unofficial co-ordinating role but it has no
18 power.

19 It also seems, according to
20 what the newspapers at the time said, and what
21 commentators on the Act said; it was very much a
22 political decision, that it was a fear that a billion
23 dollars for 40 million acres of resource-rich land,
24 presumably resource-rich land (all of it of course is),
25 would be a frightfully large corporation, and the
26 natives would start running the state.

27 Q At the bottom of page 15
28 you said that all the regional corporations have to
29 share 70% of resource revenue with the other regions,
30 so that's sort of the Alaskan native version of

Miss A. Forrest
In Chief

1 equalization payments.

2 A Yes.

3 Q And you say that this
4 would leave one them, Calista with little money. That
5 -- isn't that a fairly generous, if you're going to
6 do something for Calista it seems to me on the face
7 of it to be a pretty sound way to go about it. That's
8 the area where I gather there's little resource
9 potential compared with the Arctic Slope.

10 A Well, the basic difficulty
11 with that, I certainly don't object that that's a
12 reasonable way to share the income. You might assume,
13 by the way, that the 70% would be divided among 11
14 regional corporations, but it is in fact divided amongst
15 12 so that the only region where the resource is gets
16 the 30% plus 1/12th of the 70%.

17 Q I see.

18 A What the problem there is
19 now, is that some of the regions don't want to share,
20 and they are using the Courts as a way to stall the
21 sharing. As I mentioned, the definition of "revenue"
22 does not appear in the Act, so the position of a poor
23 region is that revenue includes all the money that a
24 region gets for the development of its resources,
25 including a capitalized value on non-monetary benefits.
26 For instance, if you make an agreement with a mining
27 company and the mining company puts a road in, and
28 you capitalize the value of that road. If they agree
29 to hire certain natives on the project, then you
30 capitalize the value of that. You capitalize all the

Miss A. Forrest
In Chief

1 fringe benefits, and that is revenue and that's what
2 you'd be sharing 12 ways. 70% of that should be
3 shared 12 ways.

4 Now the position of the rich
5 regional corporations and the leader of the rich
6 regional corporations is the Arctic Slope natives,
7 insist that, "No, that's not the way to do it." You
8 take revenue and you subtract out -- first of all
9 you don't count any of the fringe benefits because
10 that's not money, and revenue is money. Then you dis-
11 count from that all the resources that you have had to
12 put into that, all the costs of development that the
13 region has put in, and the net net net is all that
14 you share.

15 (QUALIFICATIONS & EVIDENCE OF MISS A. FORREST
16 MARKED EXHIBIT 629)

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Miss A. Forrest
Cross-Exam by MacQuarrie

1 I don't think that's
2 been resolved yet.

3 MR. GOUDGE: Sir, I take it
4 that Mr. Hollingworth --

5 MR. HOLLINGWORTH: I think
6 Mrs. MacQuarrie would take the first kick if she wants.

7 MR. GOUDGE: Certainly if you
8 like. Mrs. MacQuarrie, do you have any questions?

9 MR. STEEVES: Sorry, I can't
10 hear.

11 THE COMMISSIONER: Mrs.
12 MacQuarrie will ask some questions now.

13 CROSS-EXAMINATION BY MRS. MACQUARRIE:

14 Q I take it that the
15 tradition of sharing is non-existent in Alaska?

16 A Well, I don't think that
17 the Act has done anything to help the situation. It's
18 created a competitive structure and when the structure
19 is there, you have to live within the structure so
20 you become even more competitive.

21 Q Can you see that trans-
22 ferring to the Territories should there be such a
23 generous land claims settlement?

24 A The problem is not the
25 generosity of the settlement. The problem is the
26 corporate structure that has been imposed. I don't
27 think that the native people would view corporations
28 and certainly profit making corporations as something
29 that flows out of their tradition.

30 Q What is the alternative to

Miss A. Forrest
Cross-Exam by MacQuarrie

1 that?

2 A Well I think that the Dene
3 people have stated fairly clearly first of all that
4 they want to be able to decide whether there is going
5 to be resource development and at what pace. So that
6 decision was made for them in Alaska. The pipeline
7 was decided.

8 Secondly, once they make
9 the decision of what kind of resource developments they
10 want, then they want to be able to create those
11 structures themselves. I don't think that anybody has
12 sat down and thought that five years from now, "if
13 we do this, then this is the kind of structure we're
14 going to come up with". But, they will eventually
15 decide those things for themselves.

16 Q I'm sorry. Perhaps I
17 misunderstood you. Are you saying at present there isn't
18 any long-term planning in the Northwest Territories or
19 was that not done in Alaska?

20 A I'm sorry. I don't think
21 I understand your question.

22 Q Well, let's leave that
23 one. Just for a point of clarification, you mentioned
24 that power struggles now exist, but I didn't understand
25 between whom.

26 A Are you referring to
27 page 15 again?

28 Q I believe so.

29 THE COMMISSIONER: Among the
30 regional corporations. That's what I thought.

Miss A. Forrest

Cross-Exam by MacQuarrie

Cross-Exam by Hollingworth

A Yes, among the regions --
there are Court cases proceeding.

MRS. MACQUARRIE:

Q And these regional
corporations are native corporations, are they?

A Yes, they are.

Q Can you anticipate this
that a number of power struggles will also occur in
the Northwest Territories following a land claims
settlement ?

A Again, I say that the
corporate structure is the problem here. I don't
think that it's a result of the land settlement. You
know, if they have a corporate structure here that's
imposed
upon the native people in the same way, you know, it's
possible.

Q Human nature being what
it is, is it not likely that power struggles will
arise?

A Perhaps you and I don't
agree about human nature. I don't think it's an
outgrowth of human nature. I think it's an outgrowth
of corporate structures.

MRS. MACQUARRIE: Thank you.

THE COMMISSIONER: Thank you
Mrs. MacQuarrie.

MR. GOUDGE: Mr. Hollingworth?

CROSS-EXAMINATION BY MR. HOLLINGWORTH:

Q Are there a number of
different tribes in Alaska?

A Yes, there are.

Miss A. Forrest
Cross-Exam by Hollingworth

1 Q Well suppose for argument's
2 sake that this settlement had been devolved down to
3 the various tribes with a provision for revenue sharing
4 throughout Alaska. Do you not think that this -- you'd
5 eliminate the corporate structure then, would you not?

6 A Basically, that's what
7 did happen. Alaska is divided into 12 ethnic based
8 regions where the people are of different origins and
9 different cultures.

10 Q Yes but your quarrel is
11 that this is a power struggle^{has} that's developed is because
12 of the corporate structure that's imposed by the
13 Lands Settlement Act. Isn't that right?

14 A Yes.

15 Q Well, suppose you
16 eliminate the corporate structure and just have it
17 devolve straight from the tribes.

18 A Yes.

19 Q In the traditional
20 form that they have had.

21 A Yes.

22 Q You don't think these
23 power struggles would then arise?

24 A I think it would certainly
25 be less likely to arise. Yes. I think it would be
26 even more less likely to arise had there been a central
27 committee or something of that sort which represented
28 all the interests of all the various ethnic divisions
29 in Alaska.

30 Q Why is it less likely to

Miss A. Forrest
Cross-Exam by Hollingworth

1 arise using the tribal system than the corporate system?

2 A Well corporations are
3 based -- corporations are created to make money and
4 that's the goal of ^acorporation. You don't consider
5 many things. You don't necessarily consider what
6 the people -- let me see -- the corporation doesn't
7 necessarily serve the interests of people. It is
8 established to make money and it can survive only if
9 it is a profitable corporation. So the pursuit of
10 profitability made lead you to do things, for instance,
11 like develop resources in Alaska like the mining
12 resources or something which you mightn't ordinarily
13 do in the absence of the need to make a profit.

14 Q Well you'd probably
15 agree with me that the principle role of the corporation
16 is to serve its shareholders.

17 A Well --

18 Q I mean, if it's to make
19 money, it's to make money for the shareholders, isn't
20 it?

21 A I think there's a lot
22 of corporations that have something called retained
23 earnings which are not -- that are not distributed to
24 the shareholders and that's certainly not in the interest
25 of the shareholders.

26 Q So in your view, the role
27 of corporations is to make money for itself, not for
28 anyone else -- not even for its shareholders?

29 A Well, ultimately for a
few people but I wouldn't say that the shareholders --

Miss A. Forrest
Cross-Exam by Hollingworth

Q For all its shareholders.

A Well, it seems to me that the corporations do make money for the shareholders but the perpetuation of the corporation itself is more important.

Q Yes, but would I not be correct in assuming that the shareholders from time to time of say the Doyon Corporation are the people of the region -- the native people of that region.

A That's true, yes.

Q Well then if Doyon Corporation goes out and makes money, isn't it devolving straight down to the people?

A But as native people have made clear many times, money is not their major objective. Their major objective has been preserving their way of life.

THE COMMISSIONER: In Alaska?

A In Alaska and the Dene people have said the same thing. They don't want money, they want their land.

MR. HOLLINGWORTH: Well all right then. Let's have the shareholders of the Doyon Corporation buy land. Can they not do that with their money? Have them do it through the corporation. Can't they do that?

A I Suppose they could. Yes.

Q I take it you graduated in May or June of 1973 from U of T. Is that right?

A Yes.

Miss A. Forrest
Cross-Exam by Hollingworth

1 Q Did you study under
2 Professor Watkins at that time?

3 A Yes.

4 Q Then in 1973, you became
5 a research assistant for James Laxer. What month
6 of 1973?

7 A Let's see. That was
8 November, December and January of '74.

9 Q I see. Then in February
10 of '74 then you commenced your research with the
11 Indian Brotherhood?

12 A Yes.

13 Q Were you located in
14 Yellowknife?

15 A For periods of time, yes
16 But not basically.

17 Q Were you full-time with
18 the Indian Brotherhood?

19 A Yes I was full-time with
20 the Indian Brotherhood.

21 Q Until when in 1976 were
22 you with the Brotherhood?

23 A Until January.

24 Q So it was a two-year stint?

25 A Yes.

26 Q I see. Where were you
27 when you weren't in Yellowknife?

28 A I was in Hamilton where I
live.

Q I see. How much time did

Miss A. Forrest
Cross-Exam by Hollingworth

1 you spend in Alaska?

4 A Oh, three weeks I think.

6 Q Three weeks all at one
4 time?

5 A Yes.

6 Q When was that?

7 A That was last year, a
3 year ago.

9 Q About a year ago at this
10 time?

11 A Yes.

12 Q You haven't been back
13 since?

14 A No, I haven't.

15 Q When you were doing
16 land claims research, were you involved for instance
17 in this land use study that Miss Nahanni and her panel
18 presented evidence on?

19 A No.

20 Q Were you engaged in
21 other research apart from looking into the Alaska
22 situation?

23 A The only other thing I
24 did for the Brotherhood was the literature search that's
25 listed.

26 Q How long did that literature
27 search take you?

28 A Well, my first draft was
-11 completed by the summer of '74 I think. But it had
29 to go through quite a bit of revision, so it was, I

Miss A. Forrest
Cross-Exam by Hollingworth

1 would say intermittently four or five months.

2 Q When did you start on your
3 Alaska study?

4 A I started this in the
5 summer of '74.

6 Q The summer of '74, but
7 you weren't full-time at that because you were also
8 doing the literature search at the same time?

9 A Well, that was only for
10 a matter of a couple of months. By the time November --
11 October or November of '74, I was pretty well working
12 full-time in Alaska.

13 Q So you did full-time in
14 Alaska for over a year?

15 A Yes.

16 Q What did you -- I mean,
17 if you were only three weeks in Alaska, what did you
18 do the rest of the time?

19 A Well, I read -- I have
20 quite an extensive bibliography in footnotes in the
21 full study which I'm sure you've seen.

22 Q Yes. Yes.

23 A Well, that took me quite
24 a while. The research materials generally speaking
25 are reasonably difficult to come by. I spent quite a
26 bit of time in Ottawa at the Indian Claims Commission
27 reading.

28 Q I'm sorry, I can't hear
29 you too well.

30 A I'm sorry. I spent a fair

Miss A. Forrest

Cross-Exam by Hollingworth

1 amount of time going back between Hamilton and Ottawa
2 At the Indian Claims Commission , they have a
3 number of these rather difficult to obtain studies
4 on file.

5 THE COMMISSIONER: That would
6 be

7 A Yes. I read a lot of
8 issues of the Tundra Times.

9 MR. HOLLINGWORTH: Now you
10 say on page two of your evidence that when the land
11 settlement was eventually reached, it was severely
12 constrained by the necessity of it being acceptable to
13 the oil companies. By what exactly do you mean by that?
14 Was the draft of the Act taken to the oil companies for
15 their stamp of approval?

16 A No, I mean that there
17 wouldn't have been a land claim unless the native
18 people had agreed that the pipeline would be built.

19 Q Do you recall Mr. Notti's
20 evidence before this Inquiry?

21 A I do.

22 Q Do you recall him saying
23 that the oil companies had no input into the final
24 land settlement?

25 A No, I don't actually.

26 Q Now, you also say that
27 there was opposition in the villages, further down.

28 A Yes.

29 Q Now, on what do you rely
in making that statement?

Miss A. Forrest
Cross-Exam by Hollingworth

A The "Tundra Times".

Q The "Tundra Times"?

A Yes.

Q And what was that? In
"Letters to the Editor?"

A Yes, "Letters to the
Editor" and reporting around Alaska. The "Tundra Times"
manages to be reasonably objective about the settlement
and how it was shaping up.

Q In your view.

A In the sense that it
represented both viewpoints.

THE COMMISSIONER: That is a
native paper, is it?

A Yes, it is.

MR. HOLLINGWORTH: It's akin
to the "Native Press" of the Northwest Territories.

A Yes, it is.

Q Did you speak to the
reporters involved in any particular stories in the
"Tundra Times"?

A No, I didn't.

Q Now, as I understand it
the Alaska Federation of Natives agreed to this
particular land settlement.

A That's true.

Q And it's elected by the
native people of Alaska.

A I'm not actually, I assume
that that's how they function, yes.

Miss A. Forrest
Cross-Exam by Hollingworth

1 THE COMMISSIONER: Did any
2 native organization oppose the settlement?

3 A Yes. The Arctic Slope People.

4 Q Would that be on the
5 basis that they were disinclined to share?

6 A No, that actually is a
7 result of the fact that they were opposed to the
8 settlement. They were upset that the A.F. of N.
9 reduced its land demands from 60 million acres to
10 40 million acres.

11 Q On page 5 you make the
12 statement that:

13 "The natives protested to the Bureau of Land
14 Management, a state agency, which passed off
15 their complaints as unfounded without even
16 checking into them."

17 Now what's the basis of that statement?

18 A That's also from the
19 "Tundra Times". By the way, that should be a federal
20 agency, it's not a state agency.

21 Q All right. Did you
22 verify that with the Bureau of Land Management? Did
23 you check with them?

24 A No, I didn't.

25 Q Now on page 6 and 7,
26 maybe you can help me out here. You make a couple of
27 statements which I have difficulty with. On page 6, about
28 two-thirds of the way down, at the end of the second
29 paragraph you say:

30 "Furthermore, the natives intended to take the

Miss A. Forrest
Cross-Exam by Hollingworth

state and oil companies to Court, threatening to tie the development of Alaska up in litigation for years."

And then at the top of 7, you say:

"While the natives were the only organized group in opposition, they wielded virtually no political power."

Well, I would have thought that the ability to hold up the development of Alaska for years would have constituted political power, Miss Forrest. Maybe you and I have different definitions for it.

A There I think I would make the distinction in saying that while the native people certainly were able to take the companies to Court and hold up the pipeline for a long time, their basic aim was not to hold up the pipeline. Their basic aim was to get a land settlement, and so where they had power to do the negative, they did not have the power to do the positive, which was to negotiate a settlement.

Q But by having the power of the negative, they were able to insist upon a land claim settlement, which they eventually got.

A I beg your pardon? They were able to insist upon what?

Q By having the power of the negative they were able to insist upon a land claim settlement which they eventually got, although not to their liking.

A I don't think that's true, no.

Miss A. Forrest
Cross-Exam by Hollingworth

Q Pardon me?

A No, I don't think that's true. I think they could have tied up the pipeline but that doesn't necessarily mean that there would have been a land settlement. It just would have meant that the pipeline would have had to go through the Courts.

Q You don't think that the -- there is any relationship between the pipeline and the land claim settlement? I mean that's the whole thrust of your --

A I do think there is a relationship but I don't think that's it.

Q I'm sorry, would you let me finish my questions first? I can't hear your answers when I'm still talking. Now if we can just go back over this, you said that they didn't have the power of the positive, they had the power of the negative. I understood that to mean that they had the negative power, that is to say they could tie up the development of Alaska in the Courts.

A They could tie up the building of the pipeline, yes.

Q But they didn't have positive political power in the sense that they didn't hold land or have political power at the State Legislature, or something of that nature, is that what you were saying?

A No. Well, yes, but they needed, in my opinion--the political power was important to negotiate a land settlement. The government was not at that point convinced that they had to negotiate

Miss A. Forrest
Cross-Exam by Hollingworth

1 seriously with the Alaskan natives for the land.

2 Q They got the land
3 settlement though.

4 A They did, yes.

5 Q And didn't that arise out
6 of their ability to hold up development of Alaska?

7 A Indirectly, in the sense
8 that once they started to do that and the environmental
9 groups also began to move towards litigation, and the
10 environmental groups by the way were much better funded
11 and had probably the prospect of holding up the
12 pipeline over environmental issues for much longer than
13 the natives could have. Then the pipeline companies
14 -- company -- took stock and decided that they were not
15 being particularly wise in the way that they were trying
16 to force the pipeline through, that the best way to
17 get the pipeline through was to support the native
18 demands for a land settlement.

19 Their coalition arose out
20 of that, and the coalition is what was politically
21 powerful enough to force the land settlement.

22 Q So apart from the inter-
23 vening events of the environmental groups and the oil
24 and gas industry joining in with the natives, the
25 fact of the matter is that the threat of litigation
26 still led to a land claims settlement.

27 A Well, I would certainly
28 argue that the oil companies agreeing that a land
29 settlement was necessary was far more important.

30 Q I see. Well now, at the

Miss A. Forrest
Cross-Exam by Hollingworth

bottom of page 7 you say:

"After considering the problem, the companies decided the quickest way to get the North Slope oil to market was to support the natives in their demand for land settlement and to mend bridges with the environmentalists."

Now that's a conclusion that you've reached on the basis of what happened?

A. That is drawn from a book entitled:

"The Alaska Pipeline,"

by Mary what's her name?

Q Clay Berry.

A Yes, thank you.

Q Now, did she rely upon statements made by officials of the oil companies in making that assertion?

A I'd have to check her footnotes at the moment just to recall; but she certainly knew a lot about the various negotiations that were going on between the oil companies involved and the pipeline company.

Q Now on page 8 you say that,

"The diversity of interests within the coalition lobbying for land settlement was a liability to the natives."

Is that correct?

A Yes.

Q By the same token, couldn't it be said that that was the whole advantage?

Miss A. Forrest
Cross-Exam by Hollingworth

A Yes. It is a contradictory situation.

Q Now, at the bottom of page 8 and the top of page 9 you say:

"In particular the industry was opposed to any settlement which would have given the natives outright ownership of the land, and allowed them considerable say in the development process."

What is your -- on what are you relying in making that statement?

A The native people, had they gotten control of the land and presumably the ability to say "yes" or "no" to developments, might have said, "We don't want the pipeline," and that's certainly not what the oil industry wanted.

Q Well yes, but you've made that inference and is that how you reached the conclusion that you've just stated here?

A Yes.

Q On page 13 you say:

"Even on the land they own --"

A Just a minute, please.

Q That's about in the middle of the page, second complete paragraph, you say:

"Even on the land they own, the natives cannot control the pace or the kind of development which takes place."

Why can't they?

A Well, I think that the

Miss A. Forrest
Cross-Exam by Hollingworth

checkerboard arrangement is a difficult problem. The way the settlement is legislated, has been legislated, the native people do not own their land in contiguous townships so that if a particular resource lies over the boundaries of their land, they obviously don't control the complete development of that resource.

Furthermore, they're not protected from expropriation. State Government can put through a pipeline, a right-of-way for a pipeline or a road or hydro lines, whatever they want, on any particular piece of land.

Q After they've gone through the expropriation process.

A Yes.

Q So it's your feeling that any native-owned lands, be they in Alaska or Canada, should not be subject to expropriation.

A I think that should be part of a land settlement, yes, that native lands are protected against developments native people don't want.

Q Now on page 14 at the top you discuss the situation in 1991, which is at the end of the tax-free period, and you talk about a nominal land tax of \$1.00 per acre. Is this a figure that's been bandied about in Alaska?

A That was put to me by -- I've forgotten his exact position -- but oh, he's a lawyer for Doyon, and he seemed to feel that that was a possibility.

Q And did he make that

Miss A. Forrest
C ross-Exam by Hollingworth

1 statement on the basis of legislation that exists or
2 is proposed, or discussions with state legislators,
3 or how did he arrive at that conclusion?

4 A I didn't ask.

5 Q Well, what about the
6 cash settlement that the corporations are getting?
7 Isn't that going to generate income just sitting in
8 a bank?

9 A . It does, but I don't
10 suppose it generates the kind of income that would
11 be needed for an annual tax of \$1.00 an acre on
12 eight million acres of land.

13 Q Well, the cash settle-
14 ment is a billion dollars maximum.

15 A Yes.

16 Q And at 8% that generates
17 \$80 million a year.

18 A But that's divided
19 amongst 12 corporations who own 40 million acres of
20 land.

21 Q Yes.

22 A \$8 million a year, did
23 you say?

24 Q 80, 8-0 million dollars
25 a year. There are 40 million acres in the settlement
26 so you could pay the taxes twice over every year,
27 if in fact \$1.00 an acres is imposed, couldn't you?

28 A I suppose you could,
29 yes. The fact is, though, that that money won't be
30 invested like that. The corporations have already

Miss A. Forrest
Cross-Exam by Hollingworth

1 spent some of the money. For instance, they've had
2 very heavy expenses getting organized, these regional
3 corporations. They have -- it's very expensive
4 to travel in the north, as you well know. They have
5 built -- inflation is very, very stiff in Alaska
6 right now. They've built offices and they've bought
7 equipment, that sort of thing. It's all money coming
8 out of the settlement.

9 Q . Yes, but they're
10 generating revenues from some of those undertakings
11 -- offices, for instance.

12 A If they rent out part of their
13 offices, I suppose they would, but otherwise --

14 Q They've even rented to
15 the Bureau of Indian Affairs, by your admission.

16 A That's only one region.

17 Q And you seem rather
18 critical of that.

19 A Yes, I am.

20 Q Why?

21 A Well, in my view of the
22 world, a dollar is not a dollar as a dollar. You know,
23 it matters where the dollar comes from. The Bureau
24 of Indian Affairs has not been terribly friendly to
25 native people in the past. I don't see that it's
26 terribly wise.

Miss A. Forrest
Cross-Exam by Hollingworth

1 Q Okay, page 14, third
2 complete paragraph, last sentence.

3 "Villages have the choice of incorporating
4 as either a profit making or a non-profit
5 making corporation, whereas regional corporations
6 are required to become profit making corporations."

7 Now how many villages chose
8 profit making or non-profit making?

9 A They all chose profit
10 making.

11 Q They all chose profit
12 making?

13 A Yes. It has to do with
14 the S.E.C. regulations, apparently, that you're allowed
15 to do -- I don't know enough about it, but you're
16 allowed to do certain things as a profit making corpora-
17 tion that you're not allowed to do as a non-profit
18 making corporation.

19 Q Well, are these companies
20 federal corporations or state corporations?

21 A I presume they'd be
22 state corporations.

23 Q Then why are they
24 governed by the S.E.C.?

25 A I don't know.

26 Q Then you say down below,
27 in the next paragraph, in the third or fourth sentence.

28 "Presumably, because Congress could think of
29 nothing more innovative, the natives are now
30 stuck with profit making companies."

Miss A. Forrest
Cross-Exam by Hollingworth

1 But you say they all chose it.

2 A Well, they were given
3 the corporate structure and then within the corporate
4 structure, the villages could choose, the regional
5 corporations could not choose.

6 Q Miss Forrest, has the
7 Alaska Federation of Natives endorsed the Trans-Alaska
route for a gas pipeline?

8 A Yes, they have.

9 THE COMMISSIONER: Sorry,
10
11 endorsed the --

12 A Trans-Alaska route.

13 THE COMMISSIONER: -- the
14 El Paso --

15 A Oh, sorry, no, I'm sorry,
16 I thought you were asking a different question. I
17 don't know the answer to that.

18 MR. HOLLINGWORTH:

19 Q Well, I suggest to you
they have.

20 A Oh, okay.

21 Q You don't have any facts
22 to dispute that?

23 A No.

24 Q Now you feel that there
25 ought to be more community based activities arising
26 out of the Alaska land claims settlement.

27 A I feel that the possibility
28 should have been given the native people to choose.

29 Q Isn't the village corpora-
30 tion community based?

Miss A. Forrest
Cross-Exam by Hollingworth

1 A It is, but it's -- it
2 doesn't have the assets and the freedom to go about
3 these kinds of innovations. I'm just trying to remember
4 the breakdown of village funds.

5 It turns out that the villages
6 get relatively -- well, they get very little money
7 out of the settlement because of the number of villages,
8 especially in regions like Calista where there are
9 a vast number of villages as opposed to -- it's not
10 such a difficulty in the Arctic Slope. I think there's
11 only eight villages in the Arctic Slope region but
12 there's something like 50 -- 30 in Calista. When you
13 break it down it doesn't amount to very much money.

14 Q Are the regional corpora-
15 tions powerless to pass on funds to the village corpora-
16 tions?

17 A I don't know.

18 Q Now you also complain
19 about the amount of land that was -- that went with
20 the settlement, 40 million acres, say it wasn't sufficient

21 A That's correct.

22 Q Isn't it a fact that
23 the first proposal advanced by the native people them-
24 selves was for 40 million dollars -- 40 million acres
25 of land?

26 A That is correct, yes.

27 Q Which was what they
28 got.

29 A Which was up to 60 million
30 acres after the federal study was done.

Miss A. Forrest
Cross-Exam by Hollingworth

1 Q Did the native organiza-
2 tions change their demands?

3 A Yes, they did.

4 Q In your book, which I
5 found quite interesting, on page 19 of it you refer
6 to the fact that the demand was for -- the original
7 demand was for 40 million acres. Can you refer me to
8 where it stated that that demand was increased?

9 A I can't
10 actually, not to the page in here, but it did happen.

11 Q Well, I didn't see it.
12 I would have thought you might have put that into
13 your book.

14 A It's there.

15 Q You're sure it's there,
16 all right.

17 A Well, maybe if you could
18 refer it to me, even by letter, I'd appreciate knowing
19 where that is.

20 A All right.

21 Q And finally, and I guess
22 it's a point that you've made, but -- you emphasize at
23 the end really that you can't draw any final conclusions,
24 nobody can draw a final conclusion yet about the
25 efficacy of this land settlement.

26 A That's true.

27 Q And in fact the debate
28 is still going on in all the communities as you have
29 candidly pointed out.

30 A Yes.

Miss A. Forrest
Cross-Exam by Steeves

1 MR. HOLLINGWORTH: Okay,
2 thanks very much.

MR. GOUDGE: Mr. Steeves?

4 CROSS-EXAMINATION BY MR. STEEVES:

5 A Miss Forrest, you spent
6 three weeks in Alaska.

7 A That's right.

8 Q Was that three weeks
9 spent in interviewing people?

10 A Yes.

11 Q Did you interview anyone
12 anywhere in the state of Alaska who approved of the
13 settlement and was hopeful about the future prospects
14 for the native people --

15 A Of course.

16 Q Just a minute, as a
17 result of the settlement?

18 A Of course, yes.

19 Q Pardon me?

20 A Yes, I did.

21 Q Where are they referred to
22 in your report, in your evidence?

23 A In my evidence?

24 Q Yes, can you just
25 refer me? I read your evidence and I don't find any
26 such statements.

27 A Well, it says --

28 Q Show me.

29 A To be fair however,
30 many natives still feel there is cause for optimism

Miss A. Forrest
Cross-Exam by Steeves

in spite of it all. Page 16, end of the first paragraph.

Q Well, that's your conclusion, isn't it

A No. It's before the conclusion.

Q Oh, that's that first paragraph just before the conclusion.

A That's right, yes.

Q Does the size of that passage in the whole of your evidence indicate then the number of people out of everyone you interviewed that were favourable and positive about the settlement?

A There were a considerable number of people who were not favourable.

Q Well, yes, but it seems to me that's a very unbalanced presentation to put in an eight line paragraph at the end of your summary. Is that truly reflective as a result of your interviews?

A I would say that most of the people I talked to were very mixed in their feelings about --

Q Have you ever talked to Mr. Notti?

A Oh yes.

Q You did? Did you ever ask him why regional corporations, instead of one large corporation?

A His feeling was that --

Q Did you ask him, just answer that first.

1 A Yes, I did.

2 Q Okay, what was his answer?

3 A I think -- if I recall,
4 he felt that it was a decision made by Congress, heavily
5 influenced by what the white people in Alaska wanted
6 as expressed through the Governor of Alaska and the
7 government of Alaska -- the state government of Alaska.

8 Q Did he not also tell you
9 that there was a very sharp division between two basic
10 regions in Alaska and that the group -- the native
11 people in one region wanted money and the native people
12 in another region wanted land?

13 A Yes, it was -- there was
14 a split --

15 Q Pardon?

16 A Yes, there definitely
17 was a split.

18 Q Then this was long before
19 the demand was put before the government, isn't that
20 right, and before Congress?

21 A The A.F. of N. filed official
22 documents with the Congress and Senate Committees and
23 the official documents said that the A.F. of N. and -- by
24 application, the native peoples of -- Emil Notti, at
25 the time, I think was president of the A.F. of N.,
26 wanted a state wide corporation to co-ordinate and
27 advise the regional corporations.

28 Q Essentially there were
29 two groups within the native peoples in Alaska. One
30 wanted money and the other wanted land, is that not

Miss A. Forrest
Cross-Exam by Steeves

1 correct?

2 A No, I wouldn't go that
3 far. I would say --

4 Q Well, how far would
5 you go?

6 A I would say, in my opinion
7 anyway, reading over what has happened, that there was
8 one particular section of the Alaska Federation of
9 Natives who were very upset about the A.F. of N.
10 reducing its land demand from 60 million acres to 40
11 million acres.

12 Q Now let's go back to
13 what Mr. Notti told you. Did he not tell you that
14 there was a basic division within the native organiza-
15 tions in Alaska, between those who wanted money and
16 those who wanted land?

17 A No, he did not.

18 Q Did you -- did no one
19 that you interviewed tell you that that existed?

20 A What they said was that
21 the Arctic Slope people were holding out for more land,
22 that's what they said.

23 Q And the people in the
24 south were holding out for cash and nevermind land,
25 wasn't that so?

26 A Well, the people in the
27 south that you're referring to, the Tlingit's?

28 Q Yes.

29 A Well, the Tlingit's, of
30 course, are in a different situation and they are

Miss A. Forrest
Cross-Exam by Steeves

1 treated separately by the Act. They are not treated
2 as the rest of the ethnic groups are.

3 Q In all of your interviewing,
4 did no one ever explain to you that the reason that
5 there was no state wide corporation created was because
6 that would create an explosive situation?

7 A No.

8 Q No one you interviewed
9 told you that?

10 A No one.

11 Q Okay. Did you ever ask
12 anybody about the question you made the assumption
13 about? I understood you in answer to the Judge, to
14 say that you made an assumption about why regional
15 corporations were created, or why the checkerboard
16 selection system was used.

17 A Well, which one are
18 you asking about?

19 Q Let's talk about the
20 checkerboard selection system.

21 A Yes, that's true. I
22 did make that assumption.

23 Q Did you ask anybody why
24 the checkerboard selection system was used or where
25 it came from or what its historical background was?

26 A I don't recall, no.

27 Q You didn't?

28 A No.

29 Q You made the assumption
30 because you couldn't explain it yourself, that it was

Miss A. Forrest
Cross-Exam by Steeves

1 an attempt to exploit the native people, is that right?

2 A I would point out that
3 whether that is a valid assumption or not, the results
4 are that it does that.

5 Q I thought -- but ^{was} that
6 your thought process, did you make that assumption,
7 because you couldn't explain it within your own mind
8 did you make the assumption that it was an attempt to
9 exploit the native people?

10 A I viewed it as the
11 checkerboard pattern of land selection. My initial
12 reaction to that was that it means that the native
13 peoples cannot control the development of the resource
14 on their own lands, and I do admit that I assumed
15 that that must have been the objective of Congress.

16 Q So your answer is "yes .
17 When I couldn't understand it, I assumed it was an
18 attempt to exploit the native people."

19 A No.

20 Q Is that what your answer
21 is?

22 A No, that's not what my
23 answer is.

24 Q O.K. Let's go back.
25 Repeat again what your answer is.

26 A In viewing the way the
27 Act provides for regional corporation land selections
28 in checkerboard patterns, I observed (and I think
29 correctly) that it means that regional corporations
do not necessarily have complete control over a

Miss A. Forrest
Cross Exam by Steeves

1 particular resource. That I think is clear.

2 Now, why Congress imposed
3 the checkerboard pattern from there, I don't know,
4 but the checkerboard pattern does mean that the native
5 people cannot completely control the development of
6 any particular resource.
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Miss. A. Forrest
Cross-Exam by Steeves

1 Q Is that your final answer?

2 A It is.

3 Q You made the statement
4 in answer to Mr. Hollingworth that all the native people
5 in Alaska wanted their land and wanted --

6 A I don't remember saying
7 "all the native people".

8 Q Yes, with respect you
9 did, madam.

10 A I say "native people".

11 Q Pardon me?

12 A Native people generally
13 have expressed the view that they want their land and
14 their heritage.

15 Q Was that the position
16 in the course of the negotiations leading to settlement
17 according to your research that the bulk or majority
18 or almost all or whatever of the native people wanted
19 their land and wanted to preserve their aboriginal
20 rights?

21 A What I said in the
22 longer study was that I perceived a division of
23 interest between the Alaska Federation natives as
24 leaders of the native people and the native people at
25 the village level. There was actually very little
26 communication between the leaders and the village people
27 in the process of negotiating that settlement. Most
28 of the lobbying was done by the leaders removed in
29 Washington, with the native people sitting at home
30 knowing very little about what was happening and there

Miss A. Forrest
Cross-Exam by Steeves

1 was not much communication between the two.

2 Q I'm not talking about
3 what the native people knew about what was going on
4 in Alaska.

5 A I'm saying that --

6 Q I'm talking about your
7 statement about what the bulk of the people in Alaska
8 wanted before the settlement was concluded.

9 A In reading the Tundra
10 Times before and after the settlement, it was voiced
11 often that native people wanted their land. They were
12 not as interested in the money aspect of the settlement.

13 Q Is that the only source
14 of information you used in coming to that conclusion,
15 that the bulk of the people in Alaska wanted to maintain
16 their land rights and their aboriginal rights?

17 A That plus a few documents.

18 Q Everyone?

19 A That plus a few documents
20 that were submitted. Well, no I would have to say that
21 that is the major source, yes.

22 Q The "Tundra Times"?

23 A Yes.

24 Q Didn't you go and talk
25 to anybody about it?

26 A Well, by the time that
27 I was working on it, the land settlement was long
28 concluded.

29 Q Yes.

30 A About the only time that

Miss A. Forrest
Cross-Exam by Steeves

1 I spent in Alaska was -- most people still agreed
2 that it would have been better if to have had --

3 Q How many people did you --
4 I beg your pardon.

5 A It would have been better
6 to have had more land in the settlement. The people
7 were finding it that native leaders, including Emil
8 Notti and John Sackett, who is a Republican Senator
9 in the State agreed that the traditional way of life
10 living off the life is more is moribund, that the
11 settlement has made it impossible for that way of life
12 to continue much longer in the future because the land
13 base is too small.

14 Q How many people did you
15 interview on that question as to what they really
16 wanted out of the settlement and whether or not they
17 got it?

18 A Not many.

19 Q How many?

20 A It may have come up in
21 the discussion. I have never interviewed anyone
22 specifically for that.

23 MR. STEEVES: That's all I
24 have. Thank you.

25 THE COMMISSIONER: This cash,
26 you said that they get \$462,500,000 to be paid by
27 the Federal Government plus a two percent royalty
28 on the value of the resources produced in Alaska to
29 a maximum of 500 million. Well, I take it they have

Miss A. Forrest
Cross-Exam by Steeves

1 received the \$462.5 million?

2 A No, that's not quite
3 how it works. It's over a period of twelve years.
4 There's a schedule in the Act itself.

5 Q Oh, I see. Yes.

6 A -- that outlines how
7 it's to be divided up and when.

8 Q Well, what about the two
9 percent royalty on the value of resources produced in
10 Alaska? I would assume and tell me if I am right or
11 wrong about this, that the enjoyment of the \$500 million
12 by way of royalty would be postponed by and large
13 until royalties to the State began coming in from
14 Prudhoe Bay oil? Is that --

15 A I believe there has been
16 an amendment to the Act which provides for -- let me
17 think if I can remember it exactly. I mentioned in
18 the longer study that there are bi-annual payments into
19 the Alaska Native Fund. \$5 million I think, starting
20 in 1974/75 to cover the period between settlement and
21 when the royalties do start to come in.

22 Q Yes. That
23 book by Mary Clay Berry -- I read it. It's essentially
24 a history of the way in which the settlement came about.

25 A Yes.

26 Q Do you take violent
27 exception to anything in that book?

28 A It has been quite a
29 while since I read it but if I recall correctly, I
30 was quite pleased at the time because it seemed to me

Miss A. Forrest
Cross-Exam by Goudge

1 that I wasn't as far wrong as I thought I might have
2 been assessing --

3 Q She was was a reporter
4 with the "Washington Post" I think, wasn't she?

5 A Yes, she was.

6 THE COMMISSIONER: Do you
7 have any questions?

8 MR. GOUDGE: One question sir.
9 CROSS-EXAMINATION BY MR. GOUDGE:

10 Q Miss Forrest, I take
11 it that your major objection or your major doubt about
12 the efficacy of the Alaska settlement is the corporate
13 form that resulted, rather than the amount of land or
14 the amount of money?

15 A No, I would say it's the
16 amount of land and the control over the land.

17 Q I see. The corporate
18 form though is one difficulty that you perceive in the
19 settlement?

20 A Yes.

21 Q I take it on page nine
22 of your evidence in the first full paragraph at the
23 end of that paragraph when you say:

24 "The Alaskan settlement does not permit the
25 native peoples to expand their own ideas about
26 economic alternatives and leaves them as much tied
27 in with the wage economy and corporate notions of
28 economic development as they ever were before, if
29 not more so."

30 It's the corporate vehicle that you're addressing yourself

Miss A. Forrest
Cross-Exam by Goudge

1 to in that sentence?

2 A I do think that that's
3 part of it. Yes. But on the other hand, and even
4 more thorough going part of it is the fact that the
5 pipeline was determined and built and the kind of
6 economic development that the native people in the
7 regional corporations are involved in now are spin-offs
8 from that development. They are not developments which
9 they conceived of and implemented themselves.

10 Q Let me ask you whether
11 in your time in Alaska or your research about Alaska
12 you got any idea as to what the indigenous ideas about
13 economic alternatives were that you refer to in that
14 sentence.

15 A No, I did not.

16 Q Did you obtain -- I take
17 it then you didn't obtain any information as to what
18 alternative vehicles besides the corporate vehicle
19 could have been used.

20 A I'm not at all certain
21 that the A.F. of N. even managed to get that far along
22 its thinking during -- I think that --

23 THE COMMISSIONER: Who managed
24 to get along?

25 A The Alaska Federation
26 of Natives. In my opinion, they -- the getting of the
27 settlement was such a hassle and such a dubious
28 proposition at the beginning I don't think anyone
29 anticipated according to the people I spoke to that
30 no one actually assumed they would ever get that

Miss A. Forrest
Cross-Exam by Goudge

1 settlement and they were certainly jubilant about the
2 size of the settlement relative to niggardly settlements
3 of the past. I don't think that they ever managed
4 to get as far along in their thinking as the Brotherhood
5 and the Dene people have in thinking about alternatives.
6 They were merely groping from day to day just to get
7 a settlement.

8 MR. GOUDGE: I see. Thank
9 you. Those are all the questions I have. Thank you.

10 THE COMMISSIONER: The Tlingit
11 and the Haidis who live in the Panhandle were the subject
12 of a special act of Congress as I recall back in the
13 late '40's, and they had their own settlement for two
14 decades before this --

15 A: Yes.

16 Q --legislation in 1970.
17 Well, did the legislation of 1970 apply to the Tlingits
18 and the Haidis to bring them up to the same^{level}/if that's
19 the right expression, with the other groups or were
20 they left alone?

21 A: That's what I was
22 attempting to explain to Mr. Steeves, that I didn't
23 realize at first that he meant the division that
24 he was referring to with the Alaska people -- or the
25 Arctic Slope people that were the ones who were pushing
26 for more land and the Tlingits were the ones who were
27 pushing for more money. The reason the Tlingits in this
28 case were pushing for more money and had a powerful
29 voice is that a lot of Alaskan native leaders are
30 Tlingits. But on the other hand, they've already had

Miss A. Forrest

1 their land settlements so naturally they are not
2 terribly interested in getting more land for the rest
3 of them because you know, that's it. They've had their
4 land settlement. They did get money out of the
5 settlement. Yes. But it's --

6 Q But the Tlingits and the
7 Haidis didn't get any land.

8 A They got -- let's see
9 now. They got about three townships or something. That
10 was it.

11 Q But they would be people
12 who are rather more interested say in the fishery than
13 in the land.

14 A Well, there are timber
15 resources -- quite heavy timber resources.

16 Q Yes. Yes. When you
17 said to Mr. Goudge you object to the corporate form,
18 what you mean I take it is that you object to these
19 corporations being profit making corporations as
20 opposed to non-profit/^{making}corporations? I thought that
21 was the thrust of your objection.

22
23 A It has been. Yes.
24 But I also think that the whole idea of a corporation
25 is a pretty foreign one. It's even difficult for a
26 lot of white people brought up in the kind of world that
27 we've been brought up into to grasp just how a corpora-
28 tion runs -- a board of directors and how motions are
29 passed and how you get into a proxy fight. All these
30 kind of things like what -- you know -- how the

Miss A. Forrest

corporation goes. Being foreign, it's not readily understandable and therefore not terribly practical for native peoples I don't think.

Q Well, you told Mr. Goudge that you felt they didn't get enough land. That was the first thing.

A Yes.

Q The second thing was the corporate form that these new institutions were required to adopt and you have two objections there. One, the whole way of transacting business within a corporation and secondly the requirement that they should be profit making.

A Yes.

Q Does that summarize it?

A Except for the fact that I maybe should have carried on further in answer to Mr. Goudge's question. My first objection is the land. My second objection is the loss of Indian status. My third objection is the corporate structure.

Q You mean the 1991 loss of Indian status.

A Yes.

THE COMMISSIONER: Well, do you have any re-examination?

MR. BELL: No re-examination.

THE COMMISSIONER: Well, thank you very much Miss Forrest.

Mr. Goudge, would you see that Mr. Notti who is still to be cross-examined --

1 MR. GOUDGE: Yes sir.

2 THE COMMISSIONER: -- receives
3 a transcript of Miss Forrest's evidence. I think
4 I said I wanted him to receive her statement of evidence,
5 but I think he should receive her cross-examination --
6 the transcript of what she has said in cross-examination
7 so that -- and you might ask him in your letter --
8 send a copy to Mr. Veale -- if you wouldn't mind being
9 prepared to comment on her -- Miss Forrest's evidence
10 in chief and some of the matters raised in cross-
11 examination.

12 (WITNESS ASIDE)

13 MR. GOUDGE: Subject to what
14 you may say sir, at an informal meeting with counsel
15 it was suggested and I think it's a valid suggestion
16 that it might be wise to arrange for Mr. Notti to be
17 brought back virtually at the end of all evidence about
18 Alaska so that he would be in a position to comment
19 not simply on Miss Forrest's, but on additional evidence
20 that we'll be hearing.

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1 THE COMMISSIONER: Well,
2 where are we now, Mr. Bell?

3 MR. BELL: I suggest, sir,
4 that we sit this evening to hear Mr. Jelliss' evidence
5 after supper.

6 MR. STEEVES: As long as
7 we don't run out of evidence tomorrow.

8 THE COMMISSIONER: I take it
9 everyone agrees to that?

10 MR. HOLLINGWORTH: With Mr.
11 Steeves' proviso.

12 THE COMMISSIONER: Well, I
13 think the proviso would essentially be that you will
14 finish the evidence you do have tomorrow. Is that the
15 point?

16 MR. BELL: Yes sir.

17 THE COMMISSIONER: If we're
18 going to go into Friday, there's not much point in
19 sitting tonight. That's what I'm getting at.

20 MR. BELL: I think that the
21 chances of our going into Friday are almost nothing.

22 MR. GOUDGE: Yes sir, it
23 appears that we will be able to finish by some time
24 tomorrow afternoon if we sit tonight.

25 THE COMMISSIONER: All right,
26 well let's say eight o'clock tonight.

27 (PROCEEDINGS ADJOURNED TO 8 P.M.)
28
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Government
Publications

MACKENZIE VALLEY PIPELINE INQUIRY

IN THE MATTER OF APPLICATIONS BY EACH OF
(a) CANADIAN ARCTIC GAS PIPELINE LIMITED FOR A
RIGHT-OF-WAY THAT MIGHT BE GRANTED ACROSS
CROWN LANDS WITHIN THE YUKON TERRITORY AND
THE NORTHWEST TERRITORIES, and
(b) FOOTHILLS PIPE LINES LTD. FOR A RIGHT-OF-WAY
THAT MIGHT BE GRANTED ACROSS CROWN LANDS
WITHIN THE NORTHWEST TERRITORIES
FOR THE PURPOSE OF A PROPOSED MACKENZIE VALLEY PIPELINE
and

IN THE MATTER OF THE SOCIAL, ENVIRONMENTAL AND
ECONOMIC IMPACT REGIONALLY OF THE CONSTRUCTION,
OPERATION AND SUBSEQUENT ABANDONMENT OF THE ABOVE
PROPOSED PIPELINE

(Before the Honourable Mr. Justice Berger, Commissioner)

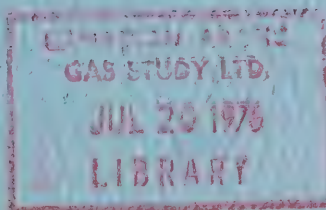
Yellowknife, N.W.T.

June 30, 1976

PROCEEDINGS AT INQUIRY

Volume 155-A

347
M835
Vol. 155-A



APPEARANCES:

Mr. Ian G. Scott, Q.C.,
Mr. Stephen T. Goudge,
Mr. Alick Ryder and
Mr. Ian Roland for Mackenzie Valley Pipeline
Inquiry;

Mr. Pierre Genest, Q.C.,
Mr. Jack Marshall,
Mr. Darryl Carter and
Mr. J.T. Steeves for Canadian Arctic Gas Pipeline
Limited.

Mr. Reginald Gibbs, Q.C.,
Mr. Alan Hollingworth and
Mr. John W. Lutes for Foothills Pipe Lines Ltd.;

Mr. Russell Anthony,
Prof. Alastair Lucas and
Mr. Garth Evans for Canadian Arctic Resources
Committee;

Mr. Glen W. Bell and
Mr. Gerry Sutton for Northwest Territories
Indian Brotherhood, and
Metis Association of the
Northwest Territories;

Mr. John Bayly and
Miss Leslie Lane for Inuit Tapirisat of Canada,
and The Committee for
Original Peoples Entitle-
ment;

Mr. Ron Veale and
Mr. Allen Lueck for The Council for the Yukon
Indians;

Mr. Carson Templeton for Environment Protection
Board;

Mr. David H. Searle, Q.C. for Northwest Territories
Chamber of Commerce

Mr. Murray Sigler for The Association of Munici-
palities;

Mr. John Ballem, Q.C. for Producer Companies;

Mrs. Joanne MacQuarrie, for Mental Health Association
of the Northwest Territor-
ies.

347
M835
Vol. 105A
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I N D E X

WITNESSES FOR INDIAN BROTHERHOOD & METIS ASSOCIATION:

Arvin D. JELLISS

- In Chief 23833
- Cross-Examination by Mr. Hollingworth 23863
- Cross-Examination by Mr. Steeves 23891
- Cross-Examination by Mr. Roland 23893

EXHIBITS:

- 630 Qualifications & Evidence of A.D. Jelliss 23847
- 631 "Some Aspects of the Political Economy of the Mackenzie Land Claim by A.D. Jelliss 23862
- 632 "Estimates of Past & Future Rents & Rent Distribution Associated with Currently Operating Mines in the N.W.T." 23862
- 633 "Estimates of Past & Future Rent & Rent Distribution Associated with Production of Crude Oil at Norman Wells, N.W.T." 23862
- 634 "Estimates of Past & Future Rents & Rent Distribution Associated with Production of Natural Gas at Pointed Mountain" 23862

A.D. Jelliss
In Chief

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: You can
begin, Mr. Bell.

MR. BELL: Yes. Mr. Commis-
sioner, I'd like to introduce Mr. Arvin Jelliss.

ARVIN D. JELLISS, sworn:

DIRECT EXAMINATION BY MR. BELL:

Q Mr. Jelliss, you are at
present an economic research consultant for the Council
of the Haida Nation.

A That's right.

Q Just briefly reviewing
your educational qualifications, you have a Bachelor
of Science in Economics from the University of Hull?

A M-hm.

Q An M.A. from the University
of Guelph.

A Yes sir.

Q And you've done post-
graduate work in economics at the University of Toronto.

A Yes.

Q In 1971 and 1972 you
were a research assistant in the Department of Economics
at the University of Guelph.

A Yes.

Q In 1973 you were a teach-
ing master at Seneca College of Applied Arts & Technology.

A That's right.

Q That's in Toronto, is it?

A.D. Jelliss
In Chief

A M-hm.

Q And in 1974 and '75 you
were an economic research analyst for the Indian
4 Brotherhood of the Northwest Territories.

A That's correct.

6 THE COMMISSIONER: What did
you say you were doing now, sir?

8 A I'm currently economic
research consultant to the Council of the Haida Nation,
10 Queen Charlotte Islands.

11 THE COMMISSIONER: Oh.

12 MR. BELL: Yes.

13 Q Would you please proceed
14 with your evidence then?

15 A In its recent Discussion
16 Paper on Northern Development the Science Council of
17 Canada posed the following fundamental question: In
18 whose economic interest should the north be developed?

19 The problems faced by the native
20 peoples of the north indicate an immediate answer to
21 this question. Any development that occurs should first
22 of all benefit the native peoples by contributing in a
23 significant way to their development efforts.

24 Because the development objec-
25 tives of the native peoples are of a long-term nature,
26 the most important way in which natural resources
27 projects can contribute to these objectives is
28 related to the economic rents associated with their
29 activities. The concept of economic rent will be dis-
30 cussed shortly. What must be emphasized at this stage

A.D. Jelliss
In Chief

1 is that as the southern provinces of Canada and an
2 increasing number of the less developed countries have
3 come to realize during the last few years, the major
4 long-term benefits that flow from natural resources
5 projects have to do with the appropriation and subse-
6 quent utilization of these economic rents. Who receives
7 these rents, and the uses to which they are put, are
8 therefore important areas of study.

9 A major point at issue in
10 the case of the proposed Mackenzie Valley Natural Gas
11 Pipeline is the extent to which native peoples of the
12 Northwest Territories would benefit from its construc-
13 tion and operation. Since the proposed pipeline would
14 presumably operate in the absence of a negotiated
15 land settlement, under institutional arrangements
16 similar to those that have governed previous natural
17 resources projects, a consideration of the distribution
18 of the economic rents associated with their activities
19 is in order. An analysis of this kind will allow us
20 to see to whom the existing institutional arrangements
21 have directed the long-term benefits associated with
22 past natural resources projects in the Northwest Terri-
23 tories, and hence to whom they are most likely to direct
24 those relating to future projects.

25 In this submission, natural
26 resources projects operative in the Northwest Terri-
27 tories since 1970 will be examined from this perspective.
28 Estimates of the magnitude and distribution of the
29 economic rents associated with their activities will be
30 presented, explanations for the observed structures of

A.D. Jelliss
In Chief

1 rent distribution will be advanced, and implications
2 of this evidence for^{the} relationship between natural
3 resources projects and native peoples' development in
4 the Northwest Territories will be discussed. A more
5 detailed case study of the Pointed Mountain natural
6 gas project will be included in order to facilitate this
7 discussion.

8
9 The economic rent associated
10 with a natural resources project may be defined as the
11 revenue accruing to the project after the deduction of
12 all costs of production, including an adequate return
13 to invested capital. In the southern provinces of
14 Canada during the last few years a number of rent
15 collection arrangements have been instituted which
16 have resulted in the people of those provinces obtaining
17 a greater share of this economic rent. In the North-
18 west Territories, on the other hand, because the rights
19 of the native peoples as land owners have not been
20 recognized, the rents accruing to natural resources
21 projects have been divided between the operating
22 companies in the form of excess profits, that is profits
23 over and above an adequate return to invested capital,
24 and the Federal Government in the form of taxes and
25 royalties. None of these rents have accrued to the
26 native peoples for use in pursuing their own development
27 objectives.

28 A further problem has been that
29 in some cases not all of the potential revenue associa-
30 ted with the production and subsequent sale of a resource
31 has flowed through to the project. In the case of

A.D. Jelliss
In Chief

Pointed Mountain natural gas, for example, not only is it sold at less than its competitive energy value, vis a vis alternative fuels at Canadian/United States border, but at least until 1975 all the border price increases that did occur accrued in the first instance to the transmission company in British Columbia, instead of to the producer in the Northwest Territories. This means that both United States --

THE COMMISSIONER: You mean that accrued to Westcoast.

A That's correct. This means initially, initially to Westcoast --

Q And then onto B.C. Petroleum.

A Yes, I presume. This means that both United States consumers of Pointed Mountain natural gas, as well as certain entities in British Columbia, have received a portion of the economic rent associated with the Pointed Mountain project -- United States consumers in the form of lower gas prices, and entities in British Columbia in the form of higher transmission charges. As the Pointed Mountain example illustrates, it is not always appropriate simply to consider the revenues accruing to the producer when estimating the economic rent associated with a particular natural resources project.

The rent estimates presented in this submission represent the actual ^{or} potential revenue accruing to a natural resources project after the deduction of all costs of production, including a 15%

A.D. Jelliss
In Chief

return to invested capital. The rent and rent distribution estimates relate to the years 1970 to 1974, inclusive. They have been adjusted to allow for inflation and are expressed in 1975 dollars. They have been converted to 1975 present values by compounding at 10%. The detailed computations on which they are based may be found in the research studies accompanying this submission.

Between 1970 and 1974, six mining projects were operative in the Northwest Territories. The Pine Point and Con/Rycon Mines are both majority owned and controlled by Cominco, which is in turn majority-owned and controlled by Canadian Pacific Investments Ltd. Canadian Pacific itself participates in the Arctic Gas consortium through its ownership interest in TransCanada Pipe Lines. The Giant Yellowknife Mine is 19% owned by Falconbridge Nickel Mines, which is in turn controlled by the Superior Oil Company of the United States through its ownership interest in McIntyre Mines Ltd. The Canada Tungsten Mine is 42% owned by American Metal Climax Incorporated. The Echo Bay Mine is owned by the International Utilities Corporation of Philadelphia.

A. D. Jellis
In Chief

An analysis of the rents associated with the activities of these mines between the beginning of 1970 and the end of 1974 revealed the following:

1. The present value in 1975 of these past rents amounted to \$195 million.
2. Of this total, the mining companies retained \$102.5 million or 52.6% in the form of excess profits while the Federal Government received \$77.4 million or 39.6% from taxes and \$15.1 million or 7.8% from royalties.

This structure of rent distribution is basically the result of Federal Government royalty and taxation policies as they apply to natural resources projects in the Northwest Territories. Within this institutional structure, the companies are seen to retain over 85% of the tax exclusive rents in the form of excess profits because of the rather generous royalty arrangements that are operative. In the southern provinces by contrast, a much smaller share of Federal tax-exclusive rents would accrue to the companies because provincial mining taxes and royalty arrangements would appropriate a greater share for the benefit of the people.

The rents retained by the companies are presumably either paid out in the form of dividends to shareholders or are used to finance investments which enhance the long-term viability and profitability of corporate operations. The location of these investments may be in Canada, the United States

A. D. Jelliss
In Chief

1 or in any country in which the ultimate rent recipients
2 perceive their long-term interests to lie.

3 Consider the activities of
4 Cominco which owns 69% of the Pine Point mine, 100%
5 of the Con mine and 76% of the Rycon mine. During
6 the 1970-1974 period, these mines between them received
7 \$75.3 million in rents from their activities in the
8 Northwest Territories. This represents 73.5% of all
9 company-retained rents associated with mining projects
10 in the Northwest Territories during these years. On the
11 basis of its ownership interests in these mines the bulk
12 of these rents would have accrued to Cominco. A portion
13 of these rents may have been retained at the mines,
14 another portion paid out to Cominco's shareholders (of
15 which Canadian Pacific Investments Ltd. would have
16 received 54%) and the rest used to help finance invest-
17 ments contributing to the long-term viability and
18 profitability of the corporation.

19 During the 1970-1974 period,
20 for example, Cominco was engaged in re-opening the H.B.
21 lead and zinc mine near Salmo in British Columbia, in
22 opening the Black Angel mine in western Greenland, in
23 gaining an Australian base of operations by acquiring a
24 55% interest in Aberfoyle Ltd., and in rehabilitating
25 the Vade potash mine in Saskatchewan. At the present
26 time, Cominco is engaged in constructing a new ammonia-
27 urea complex near Carseland, Alberta at an estimated
28 cost of \$130 million. Its current exploration projects
29 are concerned with diamonds in the Central African
30 Republic, copper-molybdenum in Mexico, zinc in Kentucky,

A. D. Jelliss
In Chief

1 oil and gas in Texas and New Mexico, lead-zinc-copper-
2 silver in Tasmania and somewhat closer to home, lead-
3 zinc and uranium in the Northwest Territories.

4 While these activities pre-
5 sumably reveal sound corporate long-term strategy, they
6 quite obviously have little to do with the development
7 problems of the native peoples in the Northwest Terri-
8 tories. At the same time as the economic rents
9 associated with Cominco's current mining projects in
10 the Northwest Territories contribute to the viability
11 and profitability of its long-term operations, they
12 fail to contribute in any meaningful way to the
13 long-term development objectives of the native peoples.
14 The reason is quite straight forward. The institutional
15 arrangements governing natural resources projects in
16 the Northwest Territories provide no mechanism by which
17 the native peoples can obtain a share of the economic
18 rents associated with their activities.

19 Production of crude oil at
20 Norman Wells dates from 1921 and is conducted by
21 Imperial Oil Limited, 69% owned and controlled by the
22 Exxon Corporation, formerly the Standard Oil Company
23 (New Jersey).

24 An analysis of the rents
25 associated with Norman Wells' crude oil production
26 between the beginning of 1970 and the end of 1974
27 revealed the following:

- 28 1. The present value in 1975 of these past rents
29 amounted to \$34.5 million.
30 2. Of this total, consumers of Norman Wells products

A. D. Jelliss
In Chief

received \$25.4 million or 73.6% in the form of lower prices, the Federal Government received \$5.4 million or 15.8% in the forms of a share of net revenue, taxes and royalties and Imperial Oil received \$3.7 million or 10.6% in the form of excess profits.

The reasons for this structure of rent distribution relate to both the Federal Government/Imperial Oil financial relationships that characterize Imperial's operations at Norman Wells and to Federal Government local and national pricing policies. With respect to the former, the revenue-sharing arrangement negotiated between the Federal Government and Imperial Oil regarding Norman Wells' crude oil production results in the Federal Government receiving:

- (a) One-third of the net value of natural gas and crude oil production, plus,
- (b) A 5% royalty on the gross value of the remaining two-thirds, minus,
- (c) An Imperial Oil management fee calculated as 10% of the Federal Government's share of production and development costs. In return, Imperial Oil is allowed to expense all development expenditures as they occur instead instead of having to apply the standard write-off procedures.

A.D. Jelliss
In Chief

1 Secondly, the federal
2 government apparently regulates the prices of Norman
3 Wells refined products in such a way that the value of
4 crude oil production is undervalued relative to the
5 Alberta wellhead price, plus transportation costs. For
6 example, in 1974 Norman Wells crude oil was valued at
7 \$3.32 a barrel, whereas the western Canada average was
8 \$5.72 a barrel. If transportation costs were \$1.00 a
9 barrel, Norman Wells crude oil was undervalued in 1974
10 by \$3.40 a barrel.

11 In addition to this, federal
12 government policy, with respect to the pricing of
13 Canadian crude oil in general results in an undervalua-
14 tion of the Alberta wellhead price relative to the
15 world oil price. In 1974 the world oil price was
16 around \$11.00 a barrel. The western Canada average
17 was, as we have seen, \$5.72 a barrel, resulting in
18 an undervaluation of the Alberta wellhead price
19 relative to the world price of \$5.28 a barrel. Adding
20 this to the undervaluation previously derived, results
21 in an undervaluation of Norman Wells crude oil in
22 1974 of \$8.68 a barrel.

23 Although the information
24 currently available does not allow an exact identifica-
25 tion of the consumer recipients, some indication
26 of these entities is possible. In 1974 the anticipated
27 sales value of refined products at Norman Wells was
28 estimated at just over six million dollars. Of this
29 total, diesel fuel oil accounted for 41.3 percent and
30 aviation turbo fuel for 33 percent. It would therefore

A.D. Jelliss
In Chief

seem that the major share of the rents associated with Norman Wells crude oil production accrued to the corporate sector.

Pointed Mountain is the only producing gas field in the Northwest Territories. Production commenced in August, 1972 and is conducted by Amoco Canada Petroleum Company Limited, a wholly owned subsidiary of Standard Oil Company, Indiana.

An analysis of the rents associated with the Pointed Mountain project, between the commencement of production and the end of 1974 revealed the following:

1. The present value in 1975 of these past rents amounted to 66.3 million dollars.
2. Of this total, United States consumers received 50.7 million dollars or 76.5 percent in the form of lower gas prices, Canadian entities in British Columbia received 15 million dollars, or 22.7 percent in the form of higher transmission charges and the federal government received 0.6 million or 0.8 percent from royalties.

The reasons for this rather disconcerting structure of rent distribution relate to both the sales arrangements respecting Pointed Mountain natural gas, and the federal government export pricing policy.

With respect to the sales arrangements, the contract between Amoco and Westcoast Transmission specified an initial price of 11.5 cents per thousand cubic feet of Pointed Mountain gas.

A.D. Jelliss
In Chief

Although the border export price of Canadian gas increased between August, 1972 and December, 1974, from 32 cents to \$1.00 per thousand cubic feet, the price received by Amoco appears to have remained at 11.5 cents. This means that entities in British Columbia, with the main candidates being Westcoast Transmission and the provincial government, were receiving a share of the rents associated with Pointed Mountain natural gas.

At the same time, the contract under which Westcoast Transmission sold Pointed Mountain gas to its U.S. customer, grossly undervalued this gas in terms of its competitive energy value, vis-a-vis alternative fuels.

In August, 1972 for example, the competitive energy value of Canadian gas at the U.S. border was around 58 cents per thousand cubic feet while the actual border price was 32 cents. By December, 1974, the actual border price had increased to \$1.00. However, a National Energy Board study, published the previous July had indicated that the competitive energy value of Canadian gas exported at Huntington, British Columbia, the export point for Pointed Mountain gas, was \$1.57 by March of that year.

It was this combination of institutional arrangements that resulted in over 75 percent of the economic rents associated with the Pointed Mountain project, accruing to U.S. residents while most of the remainder accrued to Canadian entities in British Columbia.

A.D. Jelliss
In Chief

Before proceeding to a more detailed consideration of the Pointed Mountain natural gas project, it will be useful to summarize the evidence relating to the magnitude and distribution of economic rents ^{presented} so far. This is accomplished in the table below. As this table shows, the total value of the rents associated with natural resources projects in the Northwest Territories between 1970 and 1974 approximated 296 million dollars. Of this total the operating companies retained 106 million dollars in the form of excess profits, that is profits over and above a 15 percent return on their invested capital. The federal government received 98 million dollars, mainly from taxes but also from royalties and a share of Norman Wells production revenue.

Entities in British Columbia received 15 million dollars in the form of excess transmission charges on Pointed Mountain natural gas. Canadian, mainly corporate consumers, received 25 million dollars in the form of lower prices for Norman Wells refined products and U.S. consumers received 51 million dollars in the form of undervalued natural gas prices.

The native peoples of the Northwest Territories are faced with serious development problems. The native economy is characterized by low income per capita, a high dependence on welfare and other transfer payments, skills unsuited to the demands of the high income sectors, the need to improve productivity and traditional activities and the

A.D. Jelliss
In Chief

1 lack of investment capital. The development problem
2
3 is further exacerbated by the lack of any significant
4 decision-making authority in strategic areas of interest
5 such as land use. For all intents and purposes,
6 this resides with the federal government in Ottawa.

7 The main impetus to increased
8 economic activity in the N.W.T. derives from the natural
9 resources sector. It is therefore important to be able
10 to assess the extent to which this sector may be able
11 to contribute to native people's development. On the
12 basis of such an assessment, a set of institutional
13 arrangements may be devised which will allow this
14 contribution to be most effectively provided.

15 (QUALIFICATIONS & EVIDENCE OF A.D. JELLISS

16 MARKED EXHIBIT 630)
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A.D. Jelliss
In Chief

The Pointed Mountain natural gas project provides a case study basis for such an assessment. In what follows, the mechanisms by which the project might have contributed to native peoples' development will first be specified. The Pointed Mountain project will then be evaluated from this perspective. Proceeding from the results of this evaluation a set of institutional arrangements, that would have allowed the project to more effectively contribute to native peoples' development is indicated, and the implications of such arrangements for Federal Government policy are discussed. The full implications of this evidence and that previously presented will then be derived.

In general, the contributions that a natural resources project may make to the development process may be classified into direct and fiscal aspects. Direct contributions may be divided into demand and supply side effects. On the demand side, the projects demand for labor, materials and equipment may be satisfied from supply sources within the developing economy. The expansion of markets and incomes so induced may then lead, via linkage and multiplier effects, to increased activity in less connected sectors of the economy.

On the supply side, the project may result in a new or lower cost input available for use in other sectors, or as a basis for the setting up of downstream processing activities. At the same time the labor employed on the project may accumulate new or improved skills, which are then available for

A.D. Jelliss
In Chief

utilization elsewhere in the economy at a later date.

The fiscal contributions a natural resources project may make to a developing economy relate to the magnitude and subsequent utilization of the government-appropriated portion of revenues accruing to the project after production commences. On the basis of its tax and royalty levying authority, a government may appropriate a portion of the revenues accruing to the project during the production stage. These revenues may then be used to provide infra-structural facilities with the object of stimulating activity in the non-government sector. Alternatively, or in addition, they may be channelled into the non-government sector via loans or grants for private investment purposes.

Within this analytical framework, a consideration of the Pointed Mountain project is most usefully approached by distinguishing between its construction and early production phases. To begin with, the direct impact of the project on the native economy during the construction phase will be considered. This will be followed by a consideration of the early production phase with separate attention being given to its direct and fiscal aspects.

The construction phase of the project extended from late spring, 1971, to October, 1972, with major construction activity occurring during the early months of 1972. Three major facilities were constructed: a gas dehydration plant and associated gas gathering system at the Pointed Mountain field, and

A.D. Jelliss
In Chief

1 transmission pipeline from Pointed Mountain to Beaver
2 River in Northern British Columbia. The two Pointed
3 Mountain facilities were the responsibility of the
4 producer, Amoco Canada Petroleum Company Limited. The
5 transmission pipeline was the responsibility of Westcoast
6 Transmission Company Limited and was designed to feed
7 Pointed Mountain gas into the main Westcoast system for
8 subsequent processing and distribution in British
9 Columbia and the United States Pacific Northwest.

10 The direct impact of the
11 construction phase of the project on the native economy
12 may be summarized in the following way. On the demand
13 side, since all materials and equipment were purchased
14 in the south, there were no income linkage or multiplier
15 effects associated with these expenditures in the
16 N.W.T. With regard to demand for labor, a 1973
17 Federal Government study entitled:

18 "The Socio-Economic Impact of the Pointed
19 Mountain Gas Field,"

20 by M. Scott, estimated that a total of between 65 and 70
21 different native workers were employed on the project
22 at one time or another during the construction period.
23 Peak native employment on the project coincided with
24 peak total employment, towards the end of February, 1972.
25 At that time, of a total work force of 465 men, native
26 employment reached 60 persons or 12.9% of the total.
27 In general, native employment was intermittent and of
28 relatively short duration. Native workers from the
29 Settlements of Fort Liard and Fort Simpson were estimated
30 to have worked an average of 12.4 and 4.6 weeks respectively

A.D. Jelliss
In Chief

1 during the construction period.

2 Using sample data, Scott --

3 THE COMMISSIONER: Excuse me,
4 Mr. Jelliss, this study by M. Scott has been referred
5 to in this Inquiry before, but can you just tell me
6 who he is, because I've forgotten. Is he with DIAND?

7 A That's true. He at the
8 time, I believe, was with the Policy & Program Planning
9 Section of the Northern Policy Program Branch or
10 something like that.

11 Q Thank you. Sorry, go
12 ahead.

13 A Using sample data, Scott
14 also estimated total native income from the project
15 by settlement as between \$50,000 and \$75,000 for Fort
16 Liard, approximately \$40,000 for Fort Simpson, and
17 between \$6,000 and \$10,000 for Nahanni Butte. This
18 may be compared with total construction phase outlays
19 amounting to approximately \$15 million, implying --

20 MR. HOLLINGWORTH: Excuse
21 me, Mr. Jelliss, would you move that mike about two
22 or three inches away from you? It's just pinging a
23 lot, it's quite irritating.

24 A Permit me to start off
25 again, will you, on that paragraph, because I think
26 it's a bit important.

27 Using sample data, Scott
28 also estimated total native income from the project
29 by settlement as -- does it make any difference now?
30 Using sample data, Scott also estimated total native income

A.D. Jelliss
In Chief

from the project by settlement as between \$50,000 and \$75,000 for Fort Liard, approximately \$40,000 for Fort Simpson, and between \$6,000 and \$10,000 for Nahanni Butte. This may be compared with total construction phase outlays amounting to approximately \$15 million, implying a native economy content of construction period investment expenditures of between 0.64% and 0.83%. Further, there were little if any, multiplier effects resulting from the wage component of construction expenditures. Contacts between project personnel and the nearest native settlement at Fort Liard were minimal. Native incomes derived from the project were spent mainly at settlement stores, all of which are owned and derive their supplies in the south.

On the supply side, over 90% of the jobs held by native people were in the unskilled category, with the main employment activities being clearing, brushing and grading. Skill accumulation was therefore of a very limited magnitude.

The direct impact of the early production phase of the project on the native economy may be briefly summarized. Potential demand side effects have been essentially restricted to the eight permanent employment positions available, of which half are categorized as skilled. However, all of these positions are held by Southern Canadian personnel, and these men have little or no contact with the native economy.

On the supply side, no new or lower cost inputs have been made available to the native

A.D. Jelliss
In Chief

economy. The cost of constructing a gas supply system to the community at Fort Liard has been estimated at \$500,000, and could not be justified on the basis of estimated field life and market size. The possibility of this community being supplied with electricity generated at the project has been discussed, but no action has materialized.

Under the institutional arrangements, governing natural resources projects in the N.W.T. at the present time, there exists no mechanisms by which the native peoples may obtain any fiscal or fiscal type benefits after production commences. Nevertheless, an analysis of the fiscal aspects of the Pointed Mountain project is important for at least two inter-related reasons. In the first place, as the evidence just presented has indicated, because of the extremely limited magnitude of direct benefits, any significant developmental contribution to the native economy from this project would have had to accrue via a fiscal type mechanism. Secondly, given this fact, it is useful to identify to whom existing institutional arrangements have directed the potential fiscal type benefits associated with the project. A basis is then provided from which a discussion of alternative institutional arrangements may proceed.

It is at this stage that the economic rent information presented earlier takes on added significance. It will be recalled that the present value, in 1975, of the economic rents associated with the Pointed Mountain project during the 1972 to '74

A.D. Jelliss
In Chief

period was estimated at \$66.3 million. This figure may be regarded as the potential fiscal or fiscal type contribution that the project could have made to the native economy during these years. It also provides a basis from which to assess the adequacy of existing Federal Government rent collection arrangements. Up to the end of 1974, these arrangements had appropriated a mere 0.6 million dollars, or 0.8% of the total rents associated with the project. At the same time, entities in British Columbia had received \$15 million or 22.7% of these rents, while U.S. consumers had received over \$50 million, or over 76% in the form of under-valued natural gas prices.

This distribution of economic rents associated with the early production phase of the Pointed Mountain project emphasizes both the inadequacy of existing Federal Government rent collection mechanisms, and the inappropriateness of the existing institutional arrangements governing natural resources projects in the N.W.T.

A. D. Jelliss
In Chief

For any set of institutional arrangements which directs over 3/4 of the economic rents associated with a natural resources project to foreign consumers, while at the same time appropriating less than 1% via its rent collection mechanisms, is quite obviously in need of a substantial overhaul. When these rents are at the same time being directed away from the native peoples from whose land the resource is being extracted and who have derived few other benefits from the project, it is not unreasonable to conclude that substantial institutional arrangements -- sorry, changes -- are in order.

What institutional arrangements would have been required in the case of the Pointed Mountain project? The native peoples have appraised the relationship between natural resources^{projects} and their development aspirations in the "Bulletin of the Canadian Association in Support of the Native Peoples" for March, 1976. They argue in the following way:

"We are saying that when developments do take place and many already have, Indian people are entitled as owners of the land to receive revenues or royalties. These royalties could then be put to work to create community enterprises. That way, we would create a long-term economic base under Indian control and native people would be free of dependence on the government and the developers to create jobs."

In terms of the earlier discussion, the native peoples emphasize the fiscal type

A. D. Jelliss
In Chief

contributions that natural resources projects can make to their development. They do not see increased wage employment as either a necessary or a sufficient ingredient in their long-term plans. Instead, they see the economic rents associated with natural resources projects as being able to provide the investment funds required to develop native controlled community enterprises.

Given the nature of native peoples' development aspirations, the institutional arrangement governing natural resources projects in the N.W.T. need to emphasize the appropriation and subsequent utilization within the native economy of the economic rents associated with such projects. The implementation of these arrangements in the case of the Pointed Mountain natural gas project would have implied the Federal Government's pursuit of two particular policy goals. The first of these would have been to ensure that the full value of economic rents associated with the project flowed through to the N.W.T. instead of being dissipated to southern Canadian and U.S. entities. More specifically, it would have required decisive action by the Federal Government to bring the Canadian export price of natural gas into line with its competitive energy value at the Canadian/United States border and a similar decisiveness to ensure that this value, net of Westcoast processing and transmission costs, flowed through to the N.W.T.

The second policy requirement would have entailed the design and implementation of an

A. D. Jelliss
In Chief

1 efficient rent collection mechanism in the N.W.T.
2 which would have appropriated the increased revenues
3 accruing to the project for subsequent use in the
4 native economy. Further, the magnitude of the rents
5 associated with the project indicate that this could
6 not have been achieved by some marginal change in
7 existing royalty schedules. Rather, it would have
8 required the implementation of a significantly different
9 rent collection system, able to capture the full value
10 of the economic rents associated with the project and
11 capable of channelling these rents into the native
12 economy for investment in native controlled community
13 enterprises.

14 The Federal Government's
15 failure to pursue either of these policy goals in a
16 decisive way resulted in over 76% of the economic rents
17 associated with the Pointed Mountain project accruing
18 to U.S. consumers while the native peoples of the N.W.T.,
19 faced with serious development problems, received none.

20 The implications that follow
21 from this evidence may be stated as follows:

22 1. The institutional arrangements governing natural
23 resources projects in the Northwest Territories result
24 in the economic rents associated with their activities
25 failing to contribute to the long-term development
26 objectives of the native peoples.

27 2. If such natural resources projects and those
28 envisaged in the future are to contribute to native
29 peoples' development, the institutional arrangements
30 governing their activities must be changed in a

A. D. Jelliss
In Chief

fundamental way.

3. The native peoples do not appear to be able to rely on the Federal Government to adequately represent their interests in this endeavour.

This third implication may be substantiated by considering some further aspects of the Pointed Mountain gas project. In his introductory remarks before the House of Commons Standing Committee on Indian Affairs and Northern Development in March 1972, prior to the statement of the Government's "Northern Objectives, Priorities and Strategies for the 70's", the then Minister of Indian Affairs and Northern Development, the Honourable Jean Chretien stated:

"Fundamental to the Government's statement is our belief that native northerners should derive early, visible and lasting benefits from economic development. Our efforts must not only be turned to developing the natural resources of the north for the benefit of Canada as a whole. The development of northern resources must ^{first} improve the standard of living and the well-being of northern residents. All too often, the economic activity of the past was at their expense. "

This statement was made in March, 1972 when construction relating to the Pointed Mountain project was already underway. But Edgar Dosman, in his recently published book, "The National Interest", indicates that this policy statement had been approved by the Cabinet in July 1971, prior to any significant construction activity. Further, a report

A. D. Jelliss
In Chief

submitted to Westcoast Transmission by Shultz International Limited entitled "Ecological and Economical Impact of the Pointed Mountain Natural Gas Line" and available to the Federal Government by September, 1971, had already assessed the likely distribution of the economic benefits associated with the project. After noting that benefits during the construction phase in terms of equipment purchases and personnel requirements would accrue to British Columbia, Alberta and other southern provinces receiving the appropriate contracts, the report went on to analyze the longer term benefits in the following way:

"Generally, the benefits of the proposed pipeline will be to the nation as a whole as a result of the export of gas to the United States and the corresponding foreign exchange inflow which will result. The national economy will also benefit to the extent that Westcoast's profits will be distributed to Canadian shareholders...

Further, the net value of economic activity generated, both directly and indirectly through the multiplier will benefit Canada as a whole.

We have then, a situation where on the one hand, the Cabinet has approved a policy statement in which it is emphasized that natural resources projects should not only benefit Canada as a whole, but instead should result in "early, visible and lasting benefits" to the native peoples and on the other hand, an evaluation stating that the Pointed

A. D. Jelliss
In Chief

Mountain project would do precisely the opposite. One would naturally conclude that under these circumstances, the Federal Government would not approve the project unless or until it had altered the institutional arrangements governing the project so that the native peoples would benefit. In fact, exactly the contrary occurred. The Federal Government approved the Pointed Mountain project by granting a right-of-way to Westcoast Transmission in November, 1971. It then released its public policy statement to the House Standing Committee in March, 1972 with construction well underway. The institutional arrangements governing the project then resulted, as we have seen, in U.S. consumers receiving over 76% of the economic rents associated with the project by the end of 1974 with Canadian entities in British Columbia receiving most of the rest.

The conclusion that must be drawn from any objective consideration of this evidence is clear. The native peoples cannot rely on the Federal Government alone to represent their interests in the case of proposed natural resources projects in the Northwest Territories. A more fundamental change in the institutional arrangements governing these projects is required.

The institutional arrangements governing natural resources projects in the Northwest Territories result in the economic rents and hence the long-term benefits from their activities accruing to U.S. producers and consumers, to Canadian entities in

A. D. Jelliss
In Chief

1 British Columbia, to the Canadian corporate sector, to
2 U.S. and Canadian corporate investors and to the
3 Federal Government. The native peoples of the Northwest
4 Territories, faced with serious development problems,
5 receive none.

6 The proposed Mackenzie Valley
7 natural gas pipeline, operating within the same
8 institutional structure, will produce similar results.
9 If this is not to occur, fundamental changes in the
10 institutional arrangements governing natural resources
11 projects in the Northwest Territories must first be
12 implemented because the Federal Government has proved
13 itself unable or unwilling to represent the interests
14 of the native peoples.

15 The position of the native
16 peoples is that there should be no pipeline before a
17 negotiated land claims settlement. Whatever the other
18 merits of this position, the evidence presented here
19 indicates it makes sound economic sense.

20 Thank you.

21 MR. BELL: Mr. Commissioner,
22 the studies referred to by Mr. Jelliss in his evidence
23 are being filed with the Inquiry. There are four of
24 them, one entitled "Some Aspects of the Political
25 Economy of the Mackenzie Land Claim"; the second
26 one entitled "Estimates of Past and Future Rents and
27 Rent Distribution Associated With Currently Operating
28 Mines in the Northwest Territories"; the third entitled
29 "Estimates of Past and Future Rents and Rent Distribution
30 Associated With the Production of Crude Oil at Norman

A. D. Jelliss
In Chief

1 Wells, Northwest Territories" and the fourth entitled
2 "Estimates of Past and Future Rents and Rent Distribu-
3 tions Associated With the Production of Natural Gas
4 at Pointed Mountain".

5 "SOME ASPECTS OF THE POLITICAL ECONOMY OF THE
6 MACKENZIE LAND CLAIM", A.D. JELLISS, APRIL 1975
7 MARKED EXHIBIT #631)

8 ("ESTIMATES OF PAST & FUTURE RENTS AND RENT
9 DISTRIBUTION ASSOCIATED WITH CURRENTLY OPERATING
10 MINES IN THE NORTHWEST TERRITORIES" MARKED EXHIBIT
11 #632)

12 ("ESTIMATES OF PAST AND FUTURE RENT AND RENT
13 DISTRIBUTION ASSOCIATED WITH THE PRODUCTION OF
14 CRUDE OIL AT NORMAN WELLS, NORTHWEST TERRITORIES"
15 A. D. JELLISS AUGUST, 1975 MARKED EXHIBIT #633)

16 ("ESTIMATES OF PAST AND FUTURE RENTS AND RENT
17 DISTRIBUTION ASSOCIATED WITH THE PRODUCTION OF
18 NATURAL GAS AT POINTED MOUNTAIN", A.D. JELLISS,
19 DECEMBER, 1975 MARKED EXHIBIT #634)

A.D. Jelliss
Cross-Exam by Hollingworth

1 MR. BELL: Mr. Jelliss is
2 now available for cross-examination.

3 MR. GOUDGE: Mrs. MacQuarrie
4 indicates that she doesn't have any questions, Mr.
5 Commissioner. I think Mr. Hollingworth will be next.
6 CROSS-EXAMINATION BY MR. HOLLINGWORTH:

7 Q Mr. Jelliss, you define
8 rent on a natural resources project, it's the revenue
9 accruing to the project after the deduction of all
10 costs of production, including an adequate return to
11 invested capital. Now, a capital intensive project,
12 what do you -- how do you assign the costs of the
13 capital? Do you pay it out immediately and then
14 figure your rents after that, or do you space it out
15 over the expected life of the project?

16 A There you have to
17 distinguish between two kinds of projects. In the case
18 of a currently operating project such as -- well, I
19 mean, take the two mines here in Yellowknife, they've
20 been operating since -- one open since 1938, the other
21 since 1948 or something, and they quite obviously have
22 written off any capital investments they made years
23 and years ago and the only thing that they're concerned
24 with are new capital investments.

25 Now, in this case, what I
26 did was to take whatever -- in the case of Giant for
27 example, in its annual report it has a figure for
28 fixed assets, property, buildings, buildings, plant
29 and equipment or something like that and I used that
30 figure plus other required operating assets. Things

A.D. Jelliss
Cross-Exam by Hollingworth

1 like production inventories, stores and supplies, some
2 estimate of required cash to carry on with and each
3 year, on the basis of that capital investment I give
4 a 15 percent return to the capital. Then, from gross
5 revenue one also takes away all the -- what we call
6 variable costs of production, in other words, labour,
7 materials used up in the production process during that
8 year. So that by the time you get to the end of the
9 year we have the rent estimate.

10 Now there's gross revenue from
11 gold, minus cost of production, minus 15 percent
12 returned to whatever it lists in its annual report
13 as invested fixed and operating capital.

14 Now, in the case of -- when
15 I did the study on Pointed Mountain I used what they
16 call the cash flow analysis. I looked at the -- all
17 the outlays that were made by Amoco from 1960 onwards
18 and that would be exploration, development -- well,
19 there are other kinds of preproduction expenses or
20 investments that they made, and I accumulated these
21 at a 15 percent rate until the start of production.
22 Then the -- I kind of work through the analysis,
23 estimating its cash flows until they would eventually
24 get to the stage where they got a 15 percent return
25 and then I would say that the company itself started
26 receiving the rents.

27 Now, the problem with the
28 Pointed Mountain field is that it's under the institutional
29 arrangements that prevailed, most of these rents
30 accrued to U.S. consumers because the gas that was

1 produced was shipped down through B.C. and was under-
2 valued at the Canadian, U.S. border and therefore the
3 U.S. consumers were being in a position to buy gas at
4 very much lower prices than they would have had to
5 pay for alternative fuels.

6 Q Yes, you've gone through
7 that. If I can just back up a moment, your answer's
8 getting to be quite lengthy and maybe if we could
9 just go back a moment to Pointed Mountain.

10 Now, you say you took the
11 exploration costs starting in 1960.

12 A That's right.

13 Q Now, did you take all
14 of Amoco's exploration costs or the exploration costs
15 around Pointed Mountain?

16 A I took all the exploration
17 and development costs that were given to me by the
18 Department of Indian ^{and} Northern Affairs in the Pointed
19 Mountain area. That's what they termed it in the
20 Pointed Mountain area. In other words, I presume
21 they did not include whatever exploration outlays
22 they made, for example, to get the Beaver River field
23 in operation, but the heading that I have on the paper
24 that they gave me said Pointed Mountain Exploration
25 Outlays and Development.

26 Q Indian and Northern
27 Affairs has that information by virtue of the work
28 required under the Leases Grant?

29 A I don't know, does it
30 make sense for me to say they -- is it something called

A.D. Jelliss

Cross-Exam by Hollingworth

an affidavit under which they would get that information?
I'm not sure actually, I mean, I just require --
requested the information and they kind of sent it to
me.

Q Well, do you know if
it's all the exploration costs that Amoco incurred
at Pointed Mountain?

A Well, that's what they
said.

Q That's what who said?

A The Department of
Indian Northern Affairs.

Q They said it was all
the exploration costs that Amoco incurred?

A In the Pointed Mountain
field.

Q I see, and did it
attribute a portion of Amoco's head office costs,
such as their geologists and their people analyzing
core samples?

A Oh yes.

Q It did that.

A This is the -- when we
showed these figures to an independent consultant
he --

Q And who was that?

A Mr. Van Muirs.

Q Okay.

A He, in fact, was having
difficulty in figuring out why these costs were so ..

A.D. Jelliss
Cross-Exam by Hollingworth

1 high and he said that it appeared that Amoco had
2 charged to these quite a lot of costs associated with
3 other areas of operation.

4 Q That was his observation?

5 A That was his observation,
6 I agree.

7 THE COMMISSIONER: Who was
8 that again?

9 A That was Mr. Van Muirs (2)
10 he has done consulting work for the Brotherhood, but
11 he also has been consulting for the Inuit Tapirisat.

12
13
14 A Yes.

15 MR. HOLLINGWORTH:

16 Q Now did those costs
17 also get into the drilling costs associated with the
18 Pointed Mountain project?

19 A Yes. In my study of
20 the Pointed Mountain project, which I believe is
21 -- yes, I have it, like I reprinted in the back as
22 an appendix the figures that I was given and you can
23 see, for example, in -- yes -- you see they break --
24 the title of the thing, it's called "Amoco's Preproduction
25 Expenditures, associated with the Pointed Mountain
26 gas field." That's what the title is and they break
27 the total investment outlays down and --

28 Q Excuse me, I'm sorry
29 to interrupt you Mr. Jelliss, I want to ask a question
30 of your counsel. What is this document that's being
referred to Mr. Bell?

A.D. Jelliss
Cross-Exam by Hollingworth

1 A It's my -- one of the
2 studies that was submitted to the Inquiry.

3 Q Well, I realize it's
4 been submitted to the Inquiry, but I wasn't aware of
5 its existence and it's not listed on your list of
6 documents.

7 MR. BELL: Yes, it is. It's
8 listed -- I sent out a list of documents in our possession
9 and it was on the list some time ago. I believe I
10 sent out copies of it to several people who requested
11 them. I don't know whether Foothills was among those
12 or not.

13 MR. HOLLINGWORTH: Well, My
14 understanding, sir, was that every submission had
15 attached to it a list of the documents relied upon.
16 Now Mr. Jelliss has attached a list of documents and
17 now that I look a little more carefully I see they call
18 it studies referred to in this submission.

19 THE COMMISSIONER: Well, I
20 think it must be an oversight if it's not listed.

21 MR. BELL: It's in here in
22 the body of the thing, does it make any difference if
23 it's there or at the end?

24 A You'll notice at the end
25 of the -- or just before -- on page two you see, I
26 say, a more detailed -- oh, what am I talking about?

27 On page three, just before the
28 mining section begins I say the detailed computations
29 on which these -- on which they are based, may be found
30 in the research studies accompanying this submission.

A.D. Jelliss
Cross-Exam by Hollingworth

The studies that I referred to at the back are simply, you know, reports that are used during the course of presenting the submission in general, but the figures that I give for each of the rent analyses are based on the studies that I did for the Indian Brotherhood.

MR. HOLLINGWORTH: You feel I don't have a legitimate complaint?

MR. BELL: Well sir, I don't think there's --

MR. COMMISSIONER: Well, let's hear more about it if you want to pursue it.

MR. HOLLINGWORTH: Well, I asked this gentleman a question and he wanted to refer to this other document --

MR. BELL: Yes.

THE COMMISSIONER: -- he wanted to answer you completely, which is pretty hard to -- having asked him to -- the question, it's pretty hard to say to him, well now, what's this you're looking at?

MR. HOLLINGWORTH: Well, it's pretty hard for me to cross-examine properly when I'm not aware of the document to which he's referring.

Now it's in Mr. Bell's general list of documents, but I submit sir, that it ought to be attached to the list of documents relied upon at the end of this submission.

MR. BELL: Well sir --

MR. HOLLINGWORTH: I don't

A.D. Jelliss
Cross-Exam by Hollingworth

1 have to comb Mr. Bell's list of documents every time
2 he puts in a submission surely.

3 MR. BELL: Well our list of
4 documents is relatively short and all of these documents
5 are listed under Mr. Jelliss' name on that list and
6 they are all obviously related to his evidence if
7 you read the title.

8 THE COMMISSIONER: Well, let's
9 suppose you have a legitimate complaint in that Mr.
10 Jelliss -- it should have been included on this list
11 at the back. Now, let's assume that that's a legitimate
12 complaint, where does that leave us now? Does it mean
13 that he shouldn't be allowed to answer your question,
14 whatever it was, I confess that I think I've forgotten
15 what it was, but what do we do about it now? He's here,
16 he's been answering your questions as clearly as best
17 he can and perhaps there is some slight culpability
18 should attach to Mr. Bell for not reminding him to
19 include that at the back, but it was obviously,
20 was provided to the Inquiry a long time ago and the
21 lists were circulated and it's one of these things
22 that happens, but what do you want us to do about it
23 now?

24 MR. HOLLINGWORTH: As far
25 as Mr. Jelliss goes, I don't think I'm particularly
26 prejudiced and I could ignore this line of questioning
27 from now on, because obviously there are documents
28 which I should read to effectively cross-examine this
29 gentleman. I think sir, that a statement should be
30 forthcoming from you as to exactly what that rule, in

A.D. Jelliss
Cross-Exam by Hollingworth

1 your rulings means. In my submission, Mr. Jelliss'
2 study should have been listed at the back of the
3 prepared evidence that was sent out and that should
4 be the case in the future.

5 THE COMMISSIONER: Yes, but
6 let's suppose you're right, what is the point of
7 raising it now? What do you want us to do about it
8 apart from saying that there should be some rule
9 laid down for the future? You can't just complain
10 about these things without there being some remedy
11 that you seek apart from saying to everybody, will
12 you please adhere to this rule in future. In three
13 weeks there will be somebody else, perhaps you, perhaps
14 Mr. Steeves, Mr. Goudge who will be indicted for
15 having failed in some way to live up to those rules.
16 That is human nature, that happens, but what are we
17 to do about it now? Do you want Mr. Jelliss to be
18 stood down so you can read this and see whether he
19 knows what he's talking about or not?

20 MR. HOLLINGWORTH: No sir,
21 I've said that. I don't think it's sufficiently
22 important to warrant that. I'm just saying there
23 are rules to the Inquiry, I don't know why we have
24 rules if we're not going to adhere to them sir.

25 THE COMMISSIONER: Well,
26 everyone is doing their best to adhere to them, as
27 far as I know.

28 MR. HOLLINGWORTH: We've had
29 a statement from Mr. Bell that that isn't the case.
30 He thinks that he's complied with them and I submit

A.D. Jelliss
Cross-Exam by Hollingworth

1 that it isn't sufficient.

2
3 MR. BELL: I said it was --
4 ordinarily I do attempt to list all the documents at
5 the back of the evidence. It was an oversight, but
6 I think that it was my -- it's a peccadillo. The list
7 of documents that we have submitted consists of in
8 the neighbourhood of 20 documents which can be perused
9 on a moments notice and Mr. Jelliss' studies appear
10 on that list under his name and the titles -- well,
11 I've said it before.

12 THE COMMISSIONER: You know,
13 we have to get along here and those rules are rules
14 that people are asked to do their best to abide by
15 and if anyone is prejudiced, if anyone is prejudiced
16 then we have always, and throughout, made provision to
17 enable the omission to be got round so that
18 no one is hurt, but I -- you wanted to say something
19 Mr. Steeves?

20 MR. STEEVES: Yes, I was
21 just saying that I would very much like to discuss
22 whole question with my learned friends, and I'm
23 sorry, not in the formal sense because I quite honestly
24 have a different instruction on the rule than my
25 friend, Mr. Hollingworth, and I think we should all
26 talk about it, outside of the formal proceedings and
27 try and resolve it. Because we have an honest difference
28 between us and I make that respectful suggestion to
29 my friend.
30

A.D. Jelliss
Cross-Exam by Hollingworth

1 MR. GOUDGE: Sir, I am quite
4 prepared to have another meeting of counsel this evening
2 to go over that, but frankly, sir, it seems to me that
4 we've got along very successfully over the last 15
2 months with rules that are designed basically to pro-
duce fairness and avoid prejudice, and I think we've
done that, and I think if we can continue with some
degree of common sense to approach the matter we can
continue in that vein.

MR. HOLLINGWORTH: I would like
to reserve my right to bring Mr. Jelliss back, if after
examining those documents I feel I'm prejudiced.

THE COMMISSIONER: What was
the issue we were discussing when this came up?

MR. HOLLINGWORTH: We were
discussing how Mr Jelliss arrived at economic rents,
particularly how he wrote off capital investments, and
what he included.

A Well, that's kind of
true, actually, but what you asked me, I think, was that
what would the -- when I calculated the rents associated
with Pointed Mountain, did I allow for the drilling
in development, that's what you asked me.

Q That was the last specific
question.

A Yes, and what -- the
reason I referred to this was because I was going to
point out that the figures that the Department of Indian
& Northern Affairs gave me are broken down into three
categories.

A.D. Jelliss
Cross-Exam by Hollingworth

- 1 (1) is geological and geophysical, which is basically
2 exploration expenditures;
3 (2) is drilling; and
4 (3) is production facilities.

5 During the rent estimation
6 I took account of all these expenditures, all the
7 three categories.

8 MR. BELL: Sir, subject
9 to discussion with Mr. Jelliss, we are willing to
10 have him back. That issue can't be resolved until
11 Mr. Hollingworth has read the reports, I guess.

12 MR. HOLLINGWORTH: Now, if we
13 can just deal with the capital investment involved in
14 both the Pointed Mountain gas plant and the line, Mr.
15 Jelliss.

16 A Sorry, what was the
17 second one?

18 Q The actual capital invest-
19 ment involved in the physical plant, the Pointed Moun-
20 tain gas plant and the Pointed Mountain line. Now how
21 do you take that into consideration in arriving at the
22 rents you have?

23 A The procedure that I
24 adopted, as I say, was a cash flow analysis. This -- in
25 one way or another is the ^{generally} accepted measure of -- way of
26 evaluating alternative investment opportunities. A
27 firm will say to itself, "O.K., given this particular
28 project, I will have so many years of cash outflow
29 that's associated with pre-production expenditures,
30 and then after production commences I will have so

A.D. Jelliss
Cross-Exam by Hollingworth

1 many years of cash inflows."

2
3 Then what it does is it
4 applies a discount rate to these flows so that supposing
5 one wants to get a 15% return on its investments, then
6 given the first year in which cash outlays occur, they
7 will be weighted by a figure of one; the second year in
8 which they occur is weighted less -- and over time
9 you will end up with a situation where the various
10 cash inflows are weighted less than the outflows. You
11 add them altogether and if they become greater than
12 zero, then the project is going to give you more than
13 a 15% return on your invested capital.

14 Q Fine. Excuse me for
15 interjecting every once in a while, Mr. Jelliss. What
16 I -- you've stated the point that I wanted to get at
17 in the middle. They project a number of years for the
18 project to last. Now, what happens if a project cannot
19 last as long as it was originally projected to?

20 A How do you mean "what
21 happens"? Do you mean do they get --

22 Q What happens to the
23 amounts of your economic rents, don't they have to be
24 re-calculated?

25 A Oh yes, sure. They're
26 estimates.

27 Q Yes, and are you aware,
28 sir, that the Pointed Mountain line and the Pointed
29 Mountain gas field is not expected to last as long as
30 it was originally thought?

A Well, how long was that?

A.D. Jelliss
Cross-Exam by Hollingworth

1 Q Well --

2 A Because the last estimate
3 that I have of the Pointed Mountain field is it's going
4 to last for 50 years; how long was it supposed to
5 last in the beginning?

6 Q When was your last
7 estimate received, sir?

8 A Last year.

9 Q We were told by officials
10 of Amoco at Pointed Mountain that it wasn't expected
11 to last as long as it had originally been thought.

12 A Well, Amoco made last
13 year a submission in May of 1975, in May of 1975 to the
14 British Columbia Energy Commission, and what it
15 did, it said, "O.K., two things might happen," it said.
16 "First of all at Pointed Mountain you might get a
17 situation similar to that which occurred at Beaver
18 River where the water came over the top of the gas and
19 prevented it getting out.

20 Q That's right.

21 A Then they estimated ten
22 years' production to about 1985. The other alternative
23 was nothing of this kind happening, and the production
24 flowing for 50 years. Now, associated with that 50-year
25 projection, they also listed in another section of
26 their submission requirement investment outlays to
27 get all the gas out at approximately \$10 million. Now
28 if you're saying to me that since that time the coning
29 problem with the water has now definitely been, you
30 know, has definitely occurred, well in that case we

A.D. Jelliss
Cross-Exam by Hollingworth

1 have to use their lower submission; but you see, again
4 I point out to you that from Amoco's point of view
5 it doesn't matter.

4 THE COMMISSIONER: Let the
5 witness finish.

6 A You see, most of the
7 rents -- Amoco hasn't got any rents so far from that
8 project. All the rent, 76% of the rents accrue to
9 U.S. producers. Now you see, -- sorry, thank you so
10 much. You see, the point is this, Amoco signed a
11 contract with Westcoast Transmission in 1969.

12 MR. HOLLINGWORTH: Yes, you've
13 recited that in your --

14 A O.K., now it moved when
15 it signed the contract that the price of gas until the
16 end of 1974 was going to be 11.5¢. It went ahead and
17 invested all its money on that basis. One can only
18 assume that whatever revenues accrued from that were
19 obviously sufficient to induce Amoco to invest and
20 obviously expect to get its investment out. Now under
21 that situation, you know, I mean I don't know what
22 your problem is because if the firm is willing to
23 invest in that situation, then most of the rents accrue
24 to B.C. and the U.S. consumers. More rent estimates,
25 the ones that I saw up to the end of '74, haven't got
26 anything to do with whether or not the project is going
27 to be a success or not.

28 Q But it was willing to invest
29 that at that time, that sales price of an M.c.f. gas
30 in the expectation that the field would last 50 years

A.D. Jelliss
Cross-Exam by Hollingworth

1 at least, and in the expectation undoubtedly that the
2 gas -- the price would probably rise as years went by.

3 A Oh, certainly, after
4 '74, but again I point out to you that the rent esti-
5 mates that I gave, you're getting onto the wrong track.
6 You see, the rent estimates have accrued not to Amoco
7 or to the government, they have accrued to U.S. con-
8 sumers. It has nothing to do with what the producer
9 did, it has to do with the institutional arrangements
10 that govern the project.

11 Q Well, let me go back.
12 Maybe I need a course in economics from Professor
13 Watkins, but let's go back to page 2 and it says:

14 "The economic rents associated with a
15 natural resources project may be defined
16 as the revenue accruing to the project after
17 the deduction of all costs of production."

18 Now I ask you where the capital plant figured in the
19 cost of production, and I'm still not --

20 A O.K.

21 Q -- sure I have an answer.

22 A In this situation when
23 Amoco invested its money at a gas price of 11½¢ with
24 -- after 1974 it would get half of any border price
25 increase. I think that's the arrangement that works out.
26 So it was obviously expecting to write its investments
27 off over a fair period of time. You know, if you're
28 saying to me, "Well, what's going to happen in the
29 future?"

30 Well, that's an estimating

A.D. Jelliss
Cross-Exam by Hollingworth

1 problem. You know, you can attach various probabilities
2 to various outcomes and come up with some kind of
3 figure, but my rent estimates for Pointed Mountain
4 have got nothing to do with what happens in the future,
5 because they accrued to U.S. producers as well as
6 consumers, and Canadian entities in B.C. The company,
7 you know, will get its 15% return over a period of
8 years, but that's all it was concerned with.

9 Q Well, it was concerned
10 with a return.

11 A Sure.

12 Q And you said it was 15%.

13 A Yes, what I mean by that
14 is I will not say that rents accrued to a producing
15 company until it has received a 15% return on its
16 invested capital. The rents didn't accrue to the
17 company. They accrued to U.S. producers and to Canadian
18 entities in British Columbia, independent of what the
19 producer did.

20 Q Well, maybe it's late
21 in the day but let's go on to page 7, at the bottom.

22 THE COMMISSIONER: What page
23 is that?

24 MR. HOLLINGWORTH: 7.

25 Q You're speaking of the
26 Norman Wells production, and you say:

27 "Of this total, diesel fuel oil accounted for
28 41.3%, and aviation turbo fuel for 33%, it
29 would therefore seem that the major share of
30 the rents associated with Norman Wells crude

A.D. Jelliss
Cross-Exam by Hollingworth

oil production accrue to the corporate sector."

I take it from that you're saying that because of the lower price, the artificially low price of diesel fuel oil and aviation turbo fuel, that the corporate sector received these rents because it is the chief user of diesel fuel oil and aviation turbo fuel.

A That's true, yes.

Q Now, are you bearing in mind that a good deal of the electricity in the Northwest Territories is generated by diesel fuel, that is sold to individuals?

A If that is the case, the estimates would have to be -- what I did hear actually was because I didn't quite know what was happening, I phoned Imperial Oil in Toronto and asked them what diesel fuel oil was mainly used for, and they kind of told me for kind of big things, like trucks and trains and this kind of stuff. So I assume that most of it was used that way. I also assumed that Indian peoples didn't run truck or train lines, or in fact use aviation turbo fuel, so it seemed to me that it would have accrued to corporations. But if you're saying that some revision has to come, that's fair enough; but to do that, you see, I would have to get further information on how the, you know, the actual purchases and break them down by sector.

Q And are you aware, sir, that residential and commercial products from the Norman Wells Refinery are subsidized at the expense of industrial usage?

A.D. Jelliss
Cross-Exam by Hollingworth

1 A No, no, I'm not aware.

2 Q You're not aware of it.

3 A You see, O.K., the problem
4 here was that prior to doing this study I wrote a letter
5 to Imperial Oil and I said to Imperial Oil, "Look,
6 I'm working for the Indian peoples in the Northwest
7 Territories and I would request some information
8 concerning your Norman Wells operation because the
9 Indian peoples are preparing land claims for negotiation
10 and they would like to know the value of their land."

11 Imperial Oil sent me back a
12 letter which said, "You're not going to get any infor-
13 mation," and also a paper by two of their executives,
14 which really didn't have anything to do with anything
15 I was asking for. So under that situation I was working,
16 you know, I was having trouble getting the data, you
17 see,

18 Q Look, I understand. I
19 have trouble getting data from Imperial Oil. Let's
20 go on a bit, Mr. Jelliss. On page 18 you say at the
21 bottom:

22 "We have then a situation where on the one
23 hand the Cabinet has approved the policy
24 statement^{in it} which has emphasized that natural
25 resources projects shall not only benefit
26 Canada as a whole, but instead should result
27 in early visible and lasting benefits to the
28 native peoples."

29 Well, I go back, in fact, the Minister was talking about
30 northern residents, wasn't he?

A. D. Jelliss
Cross-Exam by Hollingworth

1 A Well, it's hard to say.

2 If I read this statement correctly, it says "fundamental
3 to the government's statement". It's our belief that
4 native northerners should derive early, visible and
5 lasting benefits from economic development.

6 Q Then he speaks of the
7 northern residents down below, doesn't he?

8 A Yes but you see, when
9 I refer on the next page to "early, visible and lasting
10 benefit" it's now, if you look at page 17, it says:

11 "Native northerners should derive early, visible
12 and lasting benefits."

13 Q All right. Fine. And
14 "On the other hand"...
15 continuing your passage,

16 "... an evaluation stating that the Pointed
17 Mountain project would do precisely the opposite."
18 Is that really ^{what} that evaluation said? Do you think
19 that's a fair way of putting it?

20 A Well, do you see native
21 people mentioned in this quote that I give from the
22 Shultz study? All I see ^{is} a nation as a whole, "national
23 economy", Canada as a whole". I don't see anything to
24 do with the native peoples anywhere. We tore out
25 the statement on page 18.

26 Q No.

27 A Oh.

28 Q I'm sorry, I was continuing
29 your quote at the bottom of page 18. You say:

30 "And on the other hand, an evaluation stating that

A. D. Jelliss
Cross-Exam by Hollingworth

1 Pointed Mountain project would do precisely the
2 opposite".

3 In other words, it would result in no early, visible
4 and lasting benefits for the native peoples is what
5 you seem to imply.

6 A That's correct. Yes.

7 Q Do you really think that's
8 what he is saying?

9 A Well, the quote is just
10 there and it doesn't say anything about native peoples
11 anywhere.

12 Q No but it says that the
13 benefit will be to the nation as whole. Maybe it's
14 late in the day and I'm quarrelling ^{about} words. I don't
15 know.

16 A Well look. I suppose
17 if one worked out what the proportion of native peoples
18 in the N.W.T. was to the total Canadian population
19 and then kind of applied that to the benefits that
20 might accrue from the export of Pointed Mountain gas,
21 you might come up with a couple of dollars. But I
22 don't think it would be a very big one, you know. So,
23 when we're talking about the nation as a whole --

24 THE COMMISSIONER: I think
25 where you and Mr. Hollingworth are at cross purposes
26 is the phrase "native northerners" as used by Mr.
27 Chretien and down at the bottom he says "northern
28 residents" and he may well have been equating the two,
29 which fairly would include the white population of the
30 north as well as the native population. You may have not

A. D. Jelliss
Cross-Exam by Hollingworth

1 done justice to his statement or you may have done
2 more than justice to it, depending on your point of
3 view.

White people^{who} are born here often describe themselves as "native northerners". Mr. Chretien was using the phrase in that sense. He may well have been. Then there might be some revision to be made in your conclusion or perhaps it wouldn't be a significant revision.

10 MR. HOLLINGWORTH: Mr.
11 Jelliss, when you're arriving at your economic rents
12 and your concern that the natural gas was not selling
13 this equivalent BTU content at the border -- the fact
14 of the matter, is it still isn't but it's rising. Is
15 that right?

16 As
17 A Yes. I understand it, it
18 should be under \$1.95 per buyer by January 5th or something
19 like that. I believe that's their latest statement
20 that I heard. So, yes, it is rising. It's approaching
it.

21 Q But you'll agree with
22 me won't you sir that when the Pointed Mountain project
23 was undertaken and initially when Westcoast was selling
24 gas at 11.5¢ an m.c.f. at the border, there certainly
25 wasn't such a disparity as later developed?

A The 11.5¢ refers to
the price that Amoco received.

Q I'm sorry. You're right.

A When the project --

20 THE COMMISSIONER: It was 32¢.

A. D. Jelliss
Cross-Exam by Hollingworth

1 A It was 32¢. However,
2 the British Columbia, when it was setting up the
3 B.C. Energy Commission, did a little study on -- oh,
4 here we are -- "British Columbia Energy Commission 1973
5 Report on Matters Concerning the Natural Gas Industry
6 in British Columbia". From that study, the beat of
7 what might be called the competitive energy value of
8 Canadian gas at the U.S. border at the time the
9 Pointed Mountain project kind of started up appears
10 to be around 58¢. So in other words, like, you
11 know, the difference was 32 from 58 is 26. Right?

12 Like they did this study in
13 '73 and they were saying then for example that early
14 in '73 and Pointed Mountain came on the line late in
15 '72 -- that early in '73, the competitive energy
16 value price of Canadian gas at the U.S. border is
17 58¢ and yet it was only selling at 32¢. So, the
18 discrepancy was still there. It has just kind of
19 gotten bigger.

MR. HOLLINGWORTH:

20 Q But this is a quarrel
21 you have with the government I take it, not with
22 Westcoast in that gas was always being sold at less than
23 its equivalent BTU value at that time?

24 A The -- I'm not quite
25 sure what you mean. But I mean if you are saying is
26 it due to institutional arrangements that the Federal
27 Government has some responsibility toward them, the
28 answer would be "yes".

29 Q All right. Well now,
30 on page 19 when you say in your conclusion at the end
of the first paragraph;

A. D. Jelliss
Cross-Exam by Hollingworth

1 "The native peoples of the Northwest Territory,
2 faced with serious development problems, receive
3 none..."

4 And that's -- you're talking about the rents. You
5 mean of course not directly, obviously. You mean surely
6 some of it comes through the Federal Government by way
7 of the revenues the Federal Government picks up in
8 the Northwest Territories?

9 A Oh I see your point.

10 Well --

11 THE COMMISSIONER: The
12 federal subsidy to the Territorial Government in
13 federal programs such as health services that directly
14 benefit native peoples.

15 A Well aren't -- let me
16 put it this way. Indian peoples are Canadian citizens
17 and all Canadian citizens are, as I understand it,
18 entitled to receive, you know, health and these kinds
19 of services so it has nothing at all to with these
20 productive enterprises. I mean they would get those
21 even if there was nothing here surely by the simple
22 fact--

23 Q The Maritimers got the
24 same benefits.

25 A Yes. So I mean, you
26 know, we're talking about the revenues that are
27 associated with the activities of mining, oil and gas
28 companies. We're talking about what happens to those
29 revenues. Now, if you're going to say to me in a
30 very round about way some of them come back in the form

A. D. Jelliss
Cross-Exam by Hollingworth

of housing and health and that, well that's all very well but you know, every Canadian citizen is entitled to that, right?

MR. HOLLINGWORTH:

Q Well, all right. Then let me come around it another way. I'm a resident of Alberta and I don't get direct royalties from any oil and gas fields -- any oil field or a gas field. I undoubtedly benefit from the royalties that the Government of Alberta is collecting indirectly because I am an Albertan and therefore entitled to it.

Now, by your definition, would I not be receiving any benefits?

A Well, if ^{you} want to continue to live in Alberta, I think you'll benefit from this thing called the "Heritage Fund" or something that they're setting up from the royalties that they're collecting and I think they should benefit because there's no sales tax and this kind of stuff, relative to other provinces.

THE COMMISSIONER: Yes, but Mr. Jelliss, is that your position? I thought your position was that thenative people were entitled as landlords to get ^{an} appropriate ^{share} of the economic rent. Now, landlords of the resource producing area -- now Mr. Hollingworth is a citizen of Alberta but the analogy would only be sound -- and tell me if I am not following this -- if he and he was a farmer and he had a piece of land that he claimed, and that I want a share of any of the oil that's being produced from here and I am not getting it because the government

A. D. Jelliss

Cross-Exam by Hollingworth

1 hasn't settled my claim yet. Isn't that what you have
2 been trying to tell me here?

3 A Yes. But I'm wondering
4 if we're not going into a situation where -- yes,
5 I see your point. O.K. The Government of Alberta
6 which has the jurisdiction over the land and therefore
7 collects the royalties is kind of a bit removed from
8 Mr. Hollingworth as an individual. But when I talk
9 about the Indian peoples up here getting the benefits,
10 I assume that it will be, you know, on the basis of a
11 land settlement revenues will accrue directly to the
12 institutions that they set up for themselves and that
13 these revenues will then be plowed into in some way or
14 other into their community development efforts.

15 Q But institutions, which if
16 they are established are founded --

17 A On the basis of their
18 ownership.

19 Q On the basis that they
20 are the landlords.

21 A Yes.

22 Q -- putting it in a
23 very simplistic way.

24 A Yes, I'm sorry. Maybe
25 I'm just did not --

26 MR. HOLLINGWORTH: I see.
27 You're casting the natives as landlords in that situation and
28 that I quite see that my analogy is false.

29 A O.K.

30 Q If that's what you were

A. D. Jelliss
Cross-Exam by Hollingworth

1 doing then that's the answer O.K. I have no other
2 questions.

3 THE COMMISSIONER: Mr.
4 Jelliss, assuming that your analysis here of the
5 disposition of economic rent is sound, would you comment
6 on this? In Alberta, presumably they have royalties
7 on gas that are imposed by the Province of Alberta.
8 Well, you have the Federal Government's royalties here,
9 so there the situation is the same. Then in Alberta --
10 you have income tax levied by the Federal Government
11 on a producer in Alberta and on a producer here.

12 The missing element here would
13 appear to be a tax levied by a regional or provincial
14 authority because of course, you have an income tax
15 levied on corporations in Alberta. Does that account --
16 is it fair to say that the absence of a regional or
17 territorial income tax levied on a producer such as
18 Amoco accounts for the failure, if it is such to
19 derive an appropriate share of economic rent? I mean,
20 is that the gap in this thing? Is it part of the gap?

21 A In the case of the
22 Pointed Mountain project, not exactly. The failure
23 there is composed of two elements. One of them has
24 been that the potential revenues associated with the
25 project never ever reached the Territories for it even
26 to be appropriated by whatever rent collection
27 measurement --

28 Q Because of the sales
29 price to Westcoast?

30 A That would be because of

A. D. Jelliss

1 the sale price to Westcoast, yes which resulted in the
2 rents being disseminated in British Columbia and in
3 the United States.

4 Now, in that situation, you
5 know, you haven't even got the potential up here to
6 kind of implement any kind of ^{rent} collection you know.
7 First of all, in a sense, you've got to get the revenues
8 up here before you can appropriate them. Now then,
9 if they were up here -- if they did get up here,
10 then the existing royalty mechanism is just about the
11 most generous thing that's going in Canada at the
12 moment. You know, you -- I have since I wrote this
13 in fact, what has happened with Amoco I believe is that
14 a new arrangement has been negotiated and the, by
15 I think December '74, Amoco was receiving \$1.40 per
16 m.c.f. of gas. -- No \$1.20.

17 Now, the actual border price
18 is only \$1.60 so that means that you've probably cut
19 out a lot of the rents that have been accruing to B.C.

20 Q To the B.C. Petroleum
21 Corporation?

A.D. Jellis
Cross-Exam by Steeves

A Well, to Westcoast initially and then I guess maybe the B.C. P.C., or I think the Provincial Government has about a 13% interest in Westcoast or something. But also now, you see, you've got a situation where over the last year Amoco picked up \$6 million more than it would have picked up under the prices that it predicted it was going to get when it made a submission to the B.C. Energy Commission in 1975. Here is a standard example of what goes on. What they've done is to transfer this \$6 million that would have accrued to Westcoast, to Amoco, but you see the royalty arrangements don't appropriate this and Amoco have obviously been quite prepared to continue in production at \$6 million less. Now that \$6 million will obviously, under any kind of -- when the native peoples have a good land settlement, a large part of that should have obviously been appropriated and then ploughed into the native economy. But under the existing rent collection mechanisms, nothing of that nature occurs at all.

THE COMMISSIONER: All right.

Mr. Steeves?

CROSS-EXAMINATION BY MR. STEEVES:

Q Mr. Jelliss, everything you've said about Pointed Mountain applies, does it not, to all of the fields serving the Westcoast system? That is the fields located in British Columbia.

A Not necessarily, because remember that when thinking about the Pointed Mountain

A.D. Jellis
Cross-Exam by Steeves

1 situation one has also to remember that the gas is
2 produced in the Territories. But not only did American
3 consumers receive benefits through undervalued natural
4 gas process, but also entities in another province
5 received part of the rents through excess transmission
6 charges. Now, in B.C. whatever transmission business
7 went on, that would have been kept in the province.
8 IN other words, it wouldn't have gone, for example,
9 to Alberta or something like that.

10 Q I'm sorry, I should be
11 more particular. The people of British Columbia
12 suffered the same disadvantage so far as proper
13 distribution of economic rents as the people of the
14 Northwest Territories, when you're talking about the
15 excess which has been gained by American consumers.
16 Isn't that so?

17 A That is correct.

18 Q And is it your position
19 that there needs to be institutional changes in the
20 Province of British Columbia in order to achieve an
21 equitable distribution of the economic rents?

22 A You see, the problem
23 here is that the residents of British Columbia have
24 a per capita income which is about three or four times
25 what the Indian people up here have. Now, you know, if
26 we're talking about the way the natural resources
27 projects benefit Indian people, then we've got to start
28 talking about the investment funds that are required
29 to raise their per capita income levels to something
30 approaching the national average. Now, if B.C. -- if

A.D. Jelliss
Cross-Exam by Steeves
Cross-Exam by Roland

1 the people in B.C. feel that it's in their interests
2 to sell gas to U.S. consumers at prices which under-
3 value it, well that's kind of in one sense up to
4 them and you know, they might decide that they've
5 got a sufficiently high per capita income that they'll
6 be able to do that. But in the N.W.T. it's a different
7 ball game. The Indian peoples up here have per capita
8 incomes, as I said, between a third and a quarter of
9 the national average. 25% of their income in 1970 came
10 from welfare payments.

11 Now this kind of thing, you
12 know, if we're going to try and get rid of it, it
13 obviously does require more substantial institutional
14 changes than perhaps would be required in B.C.

15 That was my point, yes. It's a different situation.

16 MR. STEEVES:

17 Well, I'm sorry. I have
18 no more questions.

19 CROSS-EXAMINATION BY MR. ROLAND:

20 Q Mr. Jelliss, just a couple
21 of questions. First of all when you calculate your
22 total rent figure, for instance at Pointed Mountain,
23 at 66.3 million, are you calculating that on the
24 border price or are you calculating that on the
25 competitive value?

26 A I just can't hear. I'm
27 sorry I can't hear very well. Try that again.

28 Q Oh, your total rent
29 figure for Pointed Mountain is 66.3 million. Are you
30 calculating that on the border price or the competitive

A.D. Jelliss
Cross-Exam by Roland

1 value?

2 A The competitive value
3 price.

4 Q At the higher value,
5 higher than the border price.

6 A Yes, that's right.

7 Q O.K., now you mentioned
8 that the export price had increased substantially,
9 and I think you said it would be increasing to \$1.95
10 in January.

11 A That is where the --

12 Q Next year.

13 A -- the last statements ,
14 yes, that I heard on the news or in the newspapers, yes.

15 Q Have you worked through
16 the effect of this new price on the total benefits and
17 their distribution.

18 A No, I haven't;
19 I worked for the Brother-
20 hood until December of last year and since that time
21 I haven't been working for them, and so I haven't
22 kind of taken into consideration things that have been
23 happening this year, for example.

24 Q Well --

25 A It would be a useful
26 exercise, but also we don't have a computer program
27 or the money, I don't think, to get one set up to do
28 this. You know, it would be very handy but anyway it's
29 not done.

30 Q I take it you'd admit that
there would -- this increase in the price would result

A.D. Jelliss
Cross-Exam by Roland

1 in s substantial shift in the rent distribution.

2 A Yes, indeed.

3 Q It would be a shift away
4 from the American consumer to the Federal Government
5 of Canada.

6 A Now wait a minute.

7 O.K., well first of all, whatever increased benefits
8 would accrue would accrue to the seller, which in
9 this case is Westcoast. Now --

10 THE COMMISSIONER: Well, the
11 seller is the U.S. Petroleum Corporation, isn't it?

12 A Well, I think there is
13 a problem here because --

14 Q At any rate it's a B.C.
15 entity or at least it isn't an N.W.T. entity that will
16 get that appreciated selling price at the U.S. border.

17 A That's true, although
18 as I understand the contract between Westcoast and
19 Amoco, Amoco should maybe get half of whatever
20 increase does occur. So I don't know if that is
21 still operative, it will get some but the first thing
22 that happens will be -- now of course since that time
23 I'm not sure but I have a feeling that competitive
24 energy value price of gas might have increased as
25 well, so although you increase the border price, you
26 are kind of following in the wake of increases in the
27 competitive energy value. So it becomes a little
28 dicey you know, just to think through this in one's
29 head and find out who is going to benefit more.

30 Certainly more revenues would

A.D. Jelliss
Cross-Exam by Roland

1 accrue initially to Westcoast and some of this might
2 eventually find its way to Amoco, and --

3 Q And it would find its
4 way to the Federal Government in taxes.

5 A Well, you see then, O.K.
6 we have another problem here. You see, Amoco operates
7 not only in the N.W.T. but in B.C. and Alberta. Now
8 the amount of taxes the Federal Government will collect
9 will simply depend on all of Amoco's operations and
10 their profitability. For example, if it's making
11 investment outlays elsewhere, like I think Amoco is
12 involved in Syncrude, eh. They just got a big grant
13 from the government for that. Now they could, if they
14 invested in that they could write off some of the
15 taxes that might have accrued from increased revenue
16 at Pointed Mountain, but to invest in the Tar Sands,
17 you see, so it's going to be very difficult. Amoco
18 doesn't issue any earning reports in Canada because
19 it's a wholly owned subsidiary of the Standard Oil
20 Company of Indiana, so you know, it gets very difficult
21 to find out what's going on..

22 THE COMMISSIONER: That's
23 the way I feel too. It's difficult to know what's going
24 on.

25 MR. ROLAND: Earlier you^{were} asked
26 the question with respect to the Federal Government de-
27 ficit, that is expenditure over revenue in the north
28 and I take it you really haven't looked into that
29 question and the amount of money spent by the Federal
30 Government in the north in excess of its revenue,

A.D. Jelliss
Cross-Exam by Roland

1 including revenue from the extraction of natural
2 resources, and the effect that the shift of the
3 revenue of natural resources will have on the Federal
4 Government deficit in the north.

5 A I think that that -- I
6 don't think I was asked that. I think that came up
7 because Mr. Hollingworth was arguing that the govern-
8 ment spends, you know, money up here.

9 Q My question is, have
10 you looked at that, at the effect of shifting the
11 revenue as I take it your presentation does, from the
12 Federal Government to the natives, or to other institu-
13 tions, what effect that has on the Federal Government
14 deficit in the north? Have you looked at that?

15 A No. But I think that
16 might -- you see, it kind of confuses things a bit,
17 because you see as Canadian citizens the stuff that the
18 Federal Government spends on native peoples' welfare
19 is close -- you know, they're citizens and we've got
20 to kind of keep a separate eye on what happens to the
21 wealth that is being extra cted from their land and
22 who benefits from that. You know, that's kind of a
23 -- I can see your argument, but I think it should be --

24 Q Well, I take it then your
25 position is that the Federal Government maintain its
26 present level of expenditure in the north and that this
27 shift in revenue has no effect on that expenditure.

28 A Oh, you mean are
29 Federal Government expenditures determined independ-
30 ently of whatever revenues accrue? I would tend to

A.D. Jelliss
Cross-Exam by Roland

1 agree that that would be so, yes. I don't think that
2 they have much connection.

3 Q That is these revenues
4 wouldn't be used for things that are now being paid
5 for by the Federal Government. Is that your position?

6 A I'm getting a bit
7 confused. I mean they would enter in any given year,
8 if the Federal Governm ent got increased royalties, I
9 guess it would be a revenue to the governm ent.

10 Q Yes, it's presently a
11 revenue to the government. As I understand your
12 presentation, you say that that revenue should be
13 shifted to another institution, a native institution
14 for their own development.

15 A Yes, the native peoples
16 because of their title to the land, should be sharing
17 in the wealth that is extracted from that land, yes.

18 Q But I take it from your
19 presentation that those revenues having been shifted
20 to the native institutions, wouldn't be used for any
21 of the purposes that are now being carried out by the
22 Federal Government -- that is educational services.
23 Those things.

24 A Oh, I see your point.
25 I think that is -- like I'm not sure. Like the Indian
26 peoples themselves would have to decide that, I think.
27 You know, I'm not sure.

A. D. Jelliss
Cross-Exam by Roland

1 Q And I think I have asked
2 this, but you haven't looked at what effect that would
3 have on Federal Government deficit figures for the
4 Territories.

5 A Oh no. No, no.

6 Q With respect to Norman
7 Wells, in taking your figures on page 7, I calculate
8 that about 25% of the sales value of products at
9 Norman Wells are used for things other than diesel
10 fuel and aviation fuel. Do you know what they are
11 used for?

12 A Not offhand. Not offhand,
13 I don't but I have somewhere the information which
14 could kind of get to you but offhand I just couldn't
15 produce them out of my head.

16 Q M-hm.

17 A Heating fuel, you know,
18 like home heating fuel does account for some of it.

19 Q I take it that all of the
20 products that are produced at Norman Wells are consumed
21 in the north?

22 A As I understand it, this
23 is correct.

24 MR. ROLAND: Yes. Thank you.
25 Those are all the questions I have.

26 THE COMMISSIONER: Any re-
27 examination?

28 MR. BELL: No re-examination.

29 THE COMMISSIONER: Well, thank
30 you very much Mr. Jelliss. You caught us in a night

A.D. Jelliss

1 sitting when we are at the top of our form as you no
2 doubt noticed, but thank you for coming and
3 for being so patient with us.

4 (WITNESS ASIDE)

5 THE COMMISSIONER: Well, we'll
6 adjourn then till 10:00 a.m.

7 (PROCEEDINGS ADJOURNED TO JULY 1, 1976)

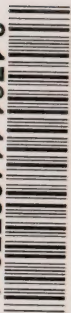
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347
M835
Vol. 155 -A

AUTHOR
Mackenzie Valley pipeline inquiry:
TITLE
June 30, 1976

<small>NO. OUT</small>	<small>RESEARCHER'S NAME</small>

347
M835
Vol. 155 -A



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